DOCUMENTS ON KASHMIR PROBLEM

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DOCUMENTS ON KASHMIR PROBLEM

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Discussion of the India-Pakistan Question in the Security Council Meeting

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Introduction

The history and culture of Jammu and Kashmir were part of the pan-Indian civilization. It was partly due to geography, the Himalayas and the Western and Eastern ranges separating it from rest of the world, and partly due to the Brahmanical culture, with Sanskrit as the lingua franca, which gave it a unity in the eyes of the upper strata of society. From centuries, Kashmir remained free from racism, communalism and casteism even during the communal structure of Dogra Raj. The National Movement against the feudal exploitation, led by Sheikh Abdullah, which was started in 1930 and continued upto 1947, was the result of the growth of national consciousness in Jammu and Kashmir. Various national leaders of India, including Pandit Jawaharlal Nehru and Maulana Abdul Kalam Azad recognized the democratic and nationalist spirit of this struggle. But British imperialists and the Hindu press tried to interpret and project it as a "result of the dispute between the Hindus and the Muslims". Inspites, this anti-feudal movement was participated by a broad section of peasants and artisans came out to fight in the streets. This insurgency of 1931 awakened the national aspirations of the Kashmiris, which ultimately helyed in the emergence of a composite Kashmiri culture without any emphasis on Muslim sectarianism. By 1939, every conscious member of Hindu, Muslim and Sikh community joined the national movement. The anti-feudal and anti-imperialist struggle reached another high pitch in 1946. The AJKNC launched the "Quit Kashmir" movement and submitted a memorandum to the Cabinet

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Mission of 1946 demanding absolute right to freedom from the autocratic rule of the Dogra house. The movement was to counter the threat of Muslim communalism that was spread in the wake of Pakistan movement of Muslim League. It also salvaged the tradition of secular nationalism in Kashmir, Launching this struggle for a decisive victory. Sheikh Abdullah, on 15 May 1946, reiterated at Srinagar that "the demand that the princely order should quit the state is a logical extension of the policy of "Quit India". When the freedom movement demands complete withdrawal of British power, logically enough the stooges of British imperialism should also go and restore sovereignty to its real owners, the people...the rulers of Indian states have always played traitor to the cause of Indian freedom. A revolution upturned the mighty Tsars and the French Revolution made short work of the ruling class of France. The time has come to tear up the treaty of Amritsar, and quit Kashmir. Sovereignty is not the birth right of Maharaja Hari Singh, Quit Kashmir is not a question of revolt. It is a matter of right". The Sheikh was arrested on the charge of sedition against the Maharaja. Followihg his arrest whole valley rose in an uprising. On 19 June 1946 Pandit Jawaharlal Nehru, Aruna Asaf Ali, Dewan Chaman Lal and Tilak Raj Chadha went to Srinagar to defend Sheikh Abdullah at his trial but were arrested by the Maharaja's administration. On his return to Delhi, Nehru complained to Gandhiji and Maulana Azad, the Congress President that people in Kashmir were grooning under the reign of terror. Mahatma Gandhi visited Kashmir in August 1947 as a guest of National Conference.

The 'Quit Kashmir' movement kept the Muslim communalism in Kashmir at bay. Immediately after independence and the creation of Pakistan Jinnah decided to wrest Kashmir by force and sent raiders for this purpose. The Maharaja of Kashmir was fled. Jawaharlal Nehru decided to send troops to rescue Kashmir on the request of the Maharaja on 24 October 1947. It was done after Kashmir had legally acceeded to India. On 26 October 1947 Sheikh Abdullah also formed a peace brigade and the peoples' militia to defeat the aggression

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of Pakistan in the valley of Kashmir. Sheikh Abdullah, the doyen of nationalism, succeeded in restoring Hindu-Muslim harmony in the valley when the rest of India was burning by communal holocast. There was a good rapport between Sheikh Abdullah, Mahatma Gandhi and Pandit Jawaharlal Nehru. Congress demanded the release of Shelkh Abdullah, and the establishment of popular government in Jammu and Kashmir. National Conference favoured accession of India without instrument of accession.

The Pakistan reacted sharply and contested the validity of the accession. India took the Kashmir question to the Security Council of the United Nations on 1 January 1948 [S/628]. Pakistan made counter complaint [S/646] but admitted that some tribesmen from Pakistan might be helping the "Azad Kashmir government". After debate the Security Council passed two resolutions [S/651 and S/654]. It appointed a three member Commission to investigate and mediate in the matter. On 13 August 1948 the UNCIP submitted a report to the Council in three parts [S/1100; S/1196, and S/1430]. Part first of the report contained provisions for a cease fire. Part two dealt with a truce agreement, and Part third with the holding of a plebiscite after the implementation of first two parts. India agreed but Pakistan did not. Later on both countries accepted the proposal submitted by the UNCIP to the Security Council on 5 January 1949 dealing with the plebiscite. The cease fire came into effect by 1 January 1949 and a cease fire line was agreed upon in July 1949. But a truce agreement could not be finalised due to opposite stands of both the countries.

The Security Council then appointed mediators. In 1949 General Mc Naughton of Canada was appointed as a mediator who's proposal was rejected by India. Sir Owen Dixon of Australia also could not succeed because he proposed the partition of Kashmir between both the countries rather than a plebiscite (S/1791). Frank P. Graham of the USA was the third mediator appointed in April 1951 also met with the same fate, however, he suggested a direct negotiation between India and Pakistan. He submitted five reports S/2375, S/2448, S/2611, S/2783 and S/2967.

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In July-August 1953 and in May 1955 the Prime Minister of both India and Pakistan started negotiated settlement which ultimately failed. After a gap of five years the Pakistan Foreign Minister F.K. Noon raised the Kashmir issue in the UN Security Council and call upon India to refrain from accepting any change in the new constitution of Kashmir—the State of Jammu and Kashmir is and shall be an integral part of the Union of India—and to accept a plebiscite [SCOR, 12th Yr., Mtg. 761]. Mr. V.K. Krishna Menon, the Indian representative informed the Council that the conditions for holding a plebiscite changed in Kashmir, [SCOR, 12th Yr. Mtgs. 762, 723 and 794]. The Security Council favoured plebiscite by adopting a resolution [S/3739] on 24 January 1957. On 21 February 1957 President Gunnar Jarring of Sweden was asked to act as mediator but India refused to accept him for the implementation of the UNCIP resolution, [S/2821].

Meanwhile, the National Conference demanded special status and autonomy for Kashmir in the political—constitutional framework of Indian political system. Article 370 of the Indian Constitution granted Kashmir a special position. It produced a hostile backlash among the Hindi-Hindu fanatics including Sardar Patel and Hindu lobby which demanded conformity of minority to Hindu majority views as well as uniformity by force. In Kashmir this Hindu lobby started non-cooperation movement against the government led by Sheikh. It was supported by the Jana Sangh, the Hindu Mahasabha, the RSS and even by the Akali Leader Master Tara Singh and Mr. S.P. Mookerjee. They criticised Nehru's appeasement policy towards Kashmir. Mr. Mookerjee called this policy as "national liability". This non-cooperation was also supported by Jayaprakash Narayan and Acharya Kripalani. This fanning of the flame of Hindu communalism—especially, in Delhi, Uttar Pradesh and Punjab—resulted in the ambivalence in Sheikh's position about accession to India. Nehru succumbed before these reactionary elements ultimately. Sheikh Abdullah now came to the conclusion "that there was no middle course between full integration and full autonomy, and as the majority in Kashmir would not accept the first alternative, there was no choice but to accept the second."

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Finally on midnight of 8-9 August 1953, the popularly elected leader of Kashmir was dismissed and imprisoned in a most undemocratic and unceremonious fashion by violating the special provisions made in the Article 370 of the Constitution.

On 2 December 1957 Security Council passed a resolution S/3922 after considering the Jarring report and directed P. Graham to make recommendations [S/3984] to the parties for facilitating a peaceful settlement and for the implementation of the resolution of the UNCIP of 13 August 1948 and 5 January 1949. The Graham report was rejected by India.

During Ayub Khan's regime Nehru-Ayub talks commenced in 1959 and 1960. On 6 October 1960 President Ayub Khan gave a threat of Military settlement of the Kashmir Problems. Threats and counter-threats continued till Chinese aggression on India in October 1962. Besides Pakistani slogan of *Jehad* President Ayub Khan put pressure on USA to exercise its influence for the settlement of the Kashmir issue. The matter was again raised in the Security Council on 1 February 1962 by Pakistan Permanent Representative Zafrullah Khan who asked the Council to take up the consideration of the dispute and to secure to the Kashmiri people their right of self-determination [SCOR; 17 Yr. Mtg. 990]. In the subsequent meetings of the Security Council [Mtgs. 1007 to 1016] Mr. Zafrullah Khan put forward his arguments in support of Pakistan's claim over Kashmir. Mr. C.S. Jha, India's permanent representative to the UN and Defence Minister Krishna Menon contested the Pakistani contentions [SCOR, Mtg. nos. 1009, 1011 and 1016] and supported by the U.S. representative and Indian position by the Soviet and Rumanian representatives. US and British representatives on 27 April 1962 tried to persuade the UN Secretary General U Thant for negotiating settlement. The issue was again raised by Mr. Plimpton, US representative, on 21 June 1962 and on 22 June 1962 when he succeeded in pursuading the Irish representative to introduce draft resolution which was vetoed out by the Soviet Union [SCOR, 17 Yr. Mtg. 1016] Prime Minister Jawaharlal Nehru expressed deep concern over the attitude of Great Powers—the U.S.A. and the U.K. After the Chinese invasion on India both Nehru and

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Ayub agreed for negotiated settlement. Six round of Bhutto—Swaran Singh talks were held between 27 December 1962 to 16 May 1963. The talks failed on the question of distribution of areas.

The disturbances in Kashmir on the disappearance of the hair of prophet Mohammad from the Hazaratbal shrine on the night of 26-27 December 1963 gave opportunity to Pakistan to raise Kashmir question in the Security Council. Though the hair was recovered, Pakistan's Minister of External Affairs, Z.A. Bhutto sent a letter to the Security Council for an urgent meeting [S/5516] to debate on grave situation of the State. Mr. Bhutto asked for a "move towards an honourable and joint solution" of the problem in Security Council's meetings held between 7 February to 11 May 1964 [Mtgs. Nos. 1087, 1089, 1104, 1112 and 1114]. Refuting the charges Mr. M.C. Chagla and Mr. B.N. Chakraverti described the incident as "purely a domestic matter". [Mtg. nos. 1088, 1104, 1113 and 1115]. Though Mr. Roger Seydoux, President of the Council submitted his statement on 18 May 1964 but nothing tangible came out of the debate. [SCOR, Mtg. no. 117].

The Indian government released Sheikh Abdullah on 8 April 1964 withdrawing all charges against him. He was sent to Pakistan to resolve the issue but sudden death of Nehru on 27 May 1964 dashed all hopes. Ayub-Shastri meeting on 12 October 1964 at Karachi and J.P. Narayan's visit to Pakistan brought no change in the attitude of both the countries. Meanwhile Sheikh Abdullah was again arrested on 8 May 1965 on charge anti-India propaganda. Sino-Pak unison persuaded Pakistan to send armed infiltration into the valley from 6 August 1965. India reacted against this attack specially in the Chhamb. The war was stopped on 22 September. Tashkent Declarations, signed on 10 January 1966 restored the *status quo* in Jammu and Kashmir as it was existed before the 5 August 1965. The Pakistan Foreign Secretary Aziz Ahmed and later on 14 January 1966 President Ayub Khan declared that peace could not be achieved unless the dispute over Jammu and Kashmir was settled honourably and equitably. Bhutto also

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blamed India for creation of the problem. Talking to the British Prime Minister Harold Wilson on 23 November 1966, Pakistani President Ayub Khan said that people of Kashmir "did not like Indian rule" and added that India did not honour the commitment under the Tashkent Declaration. Not only this while speaking before the UN General Assembly meeting on 29 September 1966 Pakistan Foreign Minister, Sharifuddin Pirzada accused India for not honouring the UNCIP resolution of 13 August 1948 and 5 January 1949 about holding of a free and impartial plebiscite [GAOR, Pen. Mtg. 1423]. He also tried to raise this issue in the Commonwealth Prime Ministers' meeting held in London on 13 September 1966. He charged the Indian government with reluctance to allow the Kashmiri people to exercise the right of self determination. Even Prime Minister Mrs. Indira Gandhi gave a statement in Lok Sabha that "India is not obliged by the Tashkent Declaration to settle the Kashmir dispute with Pakistan". Pakistan government started anti-India propaganda. Ayub Khan described Indian army as "special danger to Pakistan". He stressed on the solution of the Kashmir problem. On 10 October 1967 Pakistani Foreign Minister Mr. S. Pirzada raised a question in the UN General Assembly meeting [GAOR. Plu. Mt. 1584] and demanded "self-determination" for the people of Kashmir, to which India was committed. Similar demands were made by Arshad Hussain, the new foreign minister of Pakistan in the UN General Assembly meeting [GAOR, Pl, Mtg. 1982] and Pakistan's National Affairs Minister Nawabzada Muaammad Sher Ali Khan, [GAOR Plan. Mtg. 1775] on October 2, 1969. Pakistani Home Minister Sardar Hamid accused India for avoiding discussions in the United Nations [GAOR, Pln. Mtg. 1853] on 29 September 1970. Meanwhile, Pakistani press, specially *Pakistan Times* and *Dawn* made vehement propaganda against India. "That India is suppressing freedom of the press in occupied Kashmir and adopting ruthless measures in curbing the students and youth" Kashmiris are treated as second class citizens. Pakistan supported the terrorists in Kashmir.

A hand grenade was thrown on the Kashmir Chief Minister, G.M. Sadiq on 16 May 1966. Terrorists confessed that they

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were imparted training by Pakistani officers. The subversive activities of the Pakistani infilterators continued till date. The cease-fire violations took place frequently. Both India and Pakistan accused each other for violation of cease-fire agreement. In short Kashmir remained full disturbed between 1966 and 1969.

Pakistan protested strongly against India's measures to extend the application of Indian laws to Kashmir and described these contrary to the UNCIP and other resolutions of the United Nations. These bills, according to Pakistan, would give sweeping powers to the Indian Government to outlaw any organisation or any individual found guilty of questioning the India's sovereignty over any of the territories.

On 11 January 1968 Prime Minister Mrs. Indira Gandhi and Deputy Prime Minister, Morarji Desai desired to normalise relations with Pakistan by implementation of Tashkent Agreement but Pakistan did not respond favourably. Pakistan was insisting on "meaningful discussions on Kashmir". India's appeal to Pakistan for no-war pact' was turned down by Ayub Khan who described this proposal as "misleading" unless Kashmir dispute was solved. During the time Sheikh Abdullah and Mirza Afzal Beg were released from Jail on 3 January 1968. They demanded self determination for the Kashmiris. The hostile and anti-India attitude of Sheikh Abdullah put India in embrassing situation.

General A.M. Yahya Khan who assumed the charge from President Ayub Khan on 25 March 1969 showed his willingness for some time to establish a peaceful atmosphere between the two countries. Mrs. Indira Gandhi sent a personal letter to Mr. Khan on 22 June 1969 and suggested to revive the no-war pact proposal and a joint machinery to examine comprehensively all aspects of normalisation of relation. General Yahya Khan accepted the proposal with provision that the machinary of Indo-Pakistani body should discuss all issues including Kashmir and Farakka barrage. But after the exchange of letters between the two governments, no follow-up actions could be taken up by either of the governments, Instead

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President Yahya Khan banued all the exchange of printed materials between India and Pakistan, commercial, economic and cultural relations were completely cut off. Tashkent agreement, though Mrs. Indira Gandhi wanted to implement, went unsung and unheard. On 28 July 1970 President Yahya Khan again asked for amicable solution for Kashmir problem to establish cordial relations between both the countries.

Mr. Z.A. Bhutto advocated for quasi-military approach for the solution. Ashohar Khan recommended Algeria type struggle for Kashmir liberation. General Yahya Khan raised Kashmir's issue in UN General Assembly in October 1970 and demanded 'self determination' and withdrawal of forces of the two countries. India rejected the proposal and told that the State's accession to India in 1949 was complete. However, India favoured bilateral talks under Tashkent spirit. Mr. Z.A. Bhutto exploited the situation by raising war bogy against India. He formed Pakistan People's Party on 1 December 1967. December 1970 polls in Pakistan brought conflict between East and West Pakistan, ultimatety resulted into the creation of Bangladesh. India-Pakistan relations were further deteriorated when on 30 January 1971 an Indian Airlines plane was hijacked to Lahore with Pakistani connivance and was allowed to be blown up at the Lahore airport. Hijackers were granted asylum and were given hero's welcome there. India banned all Pak flights over the Indian territory. After India-Pakistan war of 1971 both Mrs. Indira Gandhi and Mr. Z.A. Bhutto on 2 July 1972 concluded an agreement at Simla. It was promised to respect line of control resulting from the cease-fire of December 17, 1971 in Jammu and Kashmir. They also decided to settle the Kashmir issue by mutual talks. President Zia-ul-Hag, Prime Minister Benazir Bhutto. Rajiv Gandhi, V.P. Singh and Sheikh Abdullah came and went but the Kashmir remained unsolved.

Documents on Kashmir Problem is an excellent attempt of authentic and comprehensive compilation of published documents and other literature on the subject—Kashmir dispute. It presents the text of important documents including publications of the Government of India and Pakistan, United

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Nations official documents, treatments, treaties, agreements, proposals, debates—both in UN Security Council, General Assembly—and Parliamentary debates— reports and recommendations, letters, telegrammes etc. The publication wou'd help the research scholars, academicians, educationists, politicians as well as curious laymen in understanding the issue. Compilers have made an honest attempt to be objective and impartial in compiling, editing and presenting the documents to prove their authenticity the sources of documents are also added.

We express our deep sense of indebtedness to the library staff of Indian Council of World Affairs Library, New Delhi, Nehru Memorial Museum Library, New Delhi, United Nations Information Centre, New Delhi, Jawahar Lal Nehru University Library, New Delhi, and Ministry of External Affairs Library, New Delhi for the help rendered to us during our visits there.

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161. *Text of the Speech made by Mr. Noon (Pakistan) in the Security Council meeting No. 770 held on 18 February 1957.*

This morning I have to answer two speeches of the representative of India, but please do not be afraid that my statement will be inordinately long. I shall try to be as brief as possible.

I am at a loss to decide where to begin my remarks and where to end them. I have listened very carefully to the representative of India. I do not know what the members of the Security Council feel about it, but I have had three lectures too many on the words "accession", "aggression" and "sovereignty". All these matters, as the Council is well aware, have already been considered and decided, and I fail to see why the representative of India has dwelt constantly on these three words. I can find no reason for it except this; that probably he believes, as Hitler in "Mein Kampf", that if one goes on repeating a thing a million times, perhaps people will begin to believe in it. Otherwise, the time of the Security Council has been completely wasted by discussing these three words because such discussion is quite irrelevant. Therefore, I do not wish to waste any more of the Council's time in dwelling on them.

Mr. Krishna Menon picked out these three words from the speeches, but he has forgotten—although he may have mentioned the word "plebiscite" once or twice—that the draft resolution now before the Council [S/3787] was presented mainly for the purpose of holding a plebiscite, and through all his speeches he has never diverted either the Council's attention or his own to the question of a plebiscite. He has always talked of irrelevant things and tried to establish confusion—with all due respect to Mr. Krishna Menon—so that in that confusion the question of a plebiscite might be forgotten.

I must reiterate at the very beginning that the question which is before the Security Council is how to implement the international agreement that subsists between India and Pakis-

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tan for deciding the question of the accession of the State of Jammu and Kashmir to India or to Pakistan. The Security Council and the parties to this dispute agree that demilitarization of the disputed area is an essential pre-requisite to the holding of the plebiscite. It has not so far been possible to bring about demilitarization of the State in accordance with the terms of the international agreement for a plebiscite. It is, therefore, most essential that the Security Council should devote its attention to the problem of demilitarization in order that the agreed objective of a free and impartial plebiscite may be reached quickly. This is also the purpose of the present draft resolution.

Before I proceed to make my submission about the draft resolution which is under consideration. I must say a few words with regard to some points that the representative of India made in the course of his address to the Security Council on 8 February 1957 [767th meeting]. My sole object in doing so is to keep the record straight. I will limit myself to the main points and will leave aside the rest. That does not mean that we accept either the validity of the other arguments used, or in any way subscribe to them. I am leaving them aside because in our view those matters are completely irrelevant to the issue that is engaging the attention of the Security Council. I think that such matters as the so-called secularism of India or the propaganda which is carried on in the vernacular Press of India and Pakistan against each other, of who in India or in Pakistan has suffered imprisonment, or what Sheikh Abdullah does or does not want, or the claim of India that, because Kashmir has prospered under its control, Kashmiris should be denied the right of self-determination, are all irrelevant to the issue which is under consideration.

The statement of the representative of India seems to imply that India accepted the resolution of the United Nations Commission for India and Pakistan, dated 13 August 1948 [S/1100, para. 75], about a week after it was presented, and accepted the second proposal of the Commission, dated 11 December 1948 [S/1196, annex 3], on 23 December 1948. What happened actually was that the Commission framed a resolu-

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tion on 13 August 1948 and presented it to the parties. The Government of India signified its acceptance of the resolution. The Government of Pakistan also signified its acceptance of the resolution, subject to certain conditions. The Commission could not at that stage accept those conditions of the Government of Pakistan, chief amongst which was that the resolution should specify the conditions that should govern the final resolution of the dispute by means of a free and impartial plebiscite to be conducted under the auspices of the United Nations. Thereupon, the negotiations for a cease-fire and a truce fell throuh and the Commission went back to Geneva and submitted its first report [S/1100] to the Security Council.

After some time, the Commission again took up negotiations with the representatives of India and Pakistan and succeded in securing their agreement to certain proposals for a plebiscite. These proposals were, as pointed out by the then Foreign Minister of Pakistan in his letter to the Commission dated 25 December 1948 [S/1196, annex 5], in amplification of the resolution of 13 August. The proposals were put to the two Governments on 11 December 1948 and were accepted by the Governments of India and Pakistan after certain assurances and clarifications had been given to them on 23 and 25 December respectively. These proposals, after acceptance, were embodied in a resolution by the Commission, which was adopted on 5 January 1949 [S/1196, para. 15].

The entire agreement for a cease-fire, a true and a plebiscite was thus accepted by the Government of India on 23 December 1948 and by the Government of Pakistan on 25 December 1948. The agreement constitutes one entity. Each part of it is linked-up with the other, There was to be a cease-fire first, which was to be followed by a truce, which in turn was to be followed by the plebiscite. The entire agreement stands or falls together.

It is very significant to note here that whereas Pakistan took a little time, a month or two, in asking for clarifications and then accepting, along with India, the resolution *in toto*. Mr. Krishna Menon tried to create trouble because of this two or three months' delay. Then we accepted. On the other hand,

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his country, for eight or nine years, having accepted those resolutions, has not carried them out and has evaded them, and that waste of time does not concern him at all.

The Indian representative has said that India accepted the two resolutions of the Commission on the basis of certain clarifications that were given to the Government of India by the Commission. I beg to submit that the Government of Pakistan also accepted these resolutions on the basis of certain assurances that were given to it by the Commission. The Indian representative has mentioned only the assurances that were given to the Government of India by the Commission. I am afraid I have not been able to trace the authority for all of these assurances. He has put them in a context which makes them completely different from what they were intended to mean.

For instance, it has been claimed by the Government of India that the Commission had assured it that there would be large-scale disbanding and disarming of the "Azad" Kashmir forces. We accept this as being correct, but the point is, when will such disbanding and disarming take place? I have clearly shown in my opening address [761st meeting] that according to the terms of the resolutions of the Commission as well as the various assurances that were given to us and the qualifications that were given to the Government of India, indeed according to the Government of India's own admission the disbanding of "Azad" Kashmir forces is to take places at the plebiscite stage.

In his letter to the Commission dated 18 February 1949. the Secretary-General of the Ministry of External Affairs and Commonwealth Relations of the Government of India stated:

> "The disarming of 'Azad' forces in really a matter of chronology. First, there must be a cease-fire and, after that, a truce, as envisaged in parts I and II of the Commission's resolution of 13 August 1948. After that, the condition precedent to arragements for the holding

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of a plebiscite is the creation of conditions in which Kashmir nationals can return to the area now in the occupation of 'Azad' Kashmir forces. So far as non-Muslims are concerned, such a movement will *not* take place untill large-scale disarming of these forces has beed carried out."

Today, the Government of India says that such disbanding is a prerequisite to the withdrawal of the bulk of their forces from the State, always putting meaning into sentences, which meaning is not there.

I would like to mention only a few of the assurances given to us by the Commission : one that no officer, either civil or military, of the Government of India or of the State Government will be allowed to cross the cease-fire line or allowed to exercise any authority in the "Azad" Kashmir area; two, that the "Azad" Kashmir forces will not be disbanded or disarmed in the truce stage; three, that synchronization of the withdrawal of the bulk of the Indian Army with the with-withdrawal of the Pakistan Army will be arranged by the Commission in consultation with the two High Commands; four that the Commission will be free to hear the views of the Government of Pakistan with regard to the withdrawal of the bulk of the Indian forces from the Indian side of the cease-fire line; five, that the expression "the Plebiscite Administrator will be formally appointed to office by the Government of Jammu and Kashmir" does not mean that he will be an employee of the Government of Jammu and Kashmir or subject to its control; six, that by the expression "the Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary" is meant that the Plebiscite Administrator will be competent to exercise such powers as he considers necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality, and he shall be deemed to have derived those powers from the authorities concerned. The organizing and conducting of the plebiscite shall be the responsibility exclusively of the Plebiscite Administrator. The Plebiscite Administrator could

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not derive his authority either from India or from Pakistan since there was no accession of the State to either one. Nor did the sovereignty of the State vest in either India or Pakistan. Therefore the imaginary fountainhead of the Plebiscite Administrator's authority was mentioned as the State of Jammu and Kashmir, the dissolution of whose powers to the Plebiscite Administrator was thus presumed. The Commission did not deliberately use the phrase "Government of Jammu and Kashmir" stated in this context.

These and other assurances which are not mentioned, are contained in the three reports of the Commission to the Security Council : document S/1100 dated 9 November 1948, document S/1196 dated 10 January 1949 and document S/1430 dated 9 December 1949.

Thus it will be seen that it is not only the Government of India that was given assurances with regard to the provisions of the two resolutions of the Commission. The Government of Pakistan was equally interested in the framing of these resolutions. Although we do not claim to have as much ingenuity of thought as my Indian colleague has, we also took some care to see that our viewpoint was heard by the Commission and the provision for it was made in the resolution.

While dealing with the text of the resolution of 13 August 1948, the distinguished and ingenious representative of India has tried to import into one of its clauses a meaning which it is utterly incapable of bearing. I refer to part II, section B, paragraph 2 of the resolution. I will read it once again :

> "Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The

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Commission will have observers stationed where it deems necessary." [S/1100, para. 75.].

The representative of India has argued that because the phrase "local authorities" is used, it is meant to allude to the area which is under the control of the "Azad" Kashmir Government. I would beg of the members of the Security Council to mark the phraseology of the clause which says the Indian Government will be allowed to maintain within the lines existing at the moment of the cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order.

Now, you will want to know why the words "truce lines" and not "truce line" are used. As a matter of fact there are two of these lines, one is in the northern area which runs from south to north-east, and the other runs on the borders of the Punjab—our Punjab—which runs from north-west to south-east. Therefore when the word "lines" is used it is two truce lines and not one. Now, with regard to the word "authorities". Mr. Krishna Menon took a great deal of trouble in pointing out to you that the word "authorities" means the authority on the occupied Kashmir side, and the authority on the "Azad" Kashmir side—and therefore the word "authorities" is used [767th meeting, para. 124]. He tried to give us a talk on the English language and the implication of this word. Well, I do not pretend to know the English language because it is a foreign language to me; but I tried to look it up in the Oxford dictionary. I found that since the year 1611 the words "authority" and "authorities" are used in the following sense. When the word is used in the abstract sense, the "authority" of law or "authority" of government, it i. singular —"authority". When it is used in the concrete sense, that is : the municipal "authorities" then it is used in the plural. not in the singular. Therefore, when it is used here, "authorities", it is used in the concrete sense which means "authoiities" on the Indian side of the cease-fire line and "authority" on our side of the cease-fire line. Therefore the meaning that Mr.

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Krishna Menon tried to put into the word "authorities" is not what the English language means.

English is a very difficult language, even the English themselves probably do not understand it, and we in the East are particularly in a very difficult situation. So you see, for us to come and lecture you people here who know the English language much better than we do, I will not say it is presumptuous, but it is very daring.

The cease-fire lines were established on 27 July 1949. The Government of India can maintain within the lines existing at the moment of the cease-fire a certain number of its forces. Could it be claimed that the Government of India is authorized by this clause to cross the cease-fire line and post its forces in "Azad" Kashmir territory? No further proof is required for rebutting this novel piece of reasoning. If, however, any further proof of the true import of the clause is required, I wonld respectfully draw the attention of the Security Council as well as of my distinguished colleague from India, to the Commission's summary report, dated 21 August 1948, of a meeting held between the United Nations Commission and the Government of India headed by the illustrious Prime Minister of India in person to discuss the Commission's resolution of 13 August 1948 in New Delhi at 3 p.m. on 17 August 1948. This forms part of the first interim report of the Commission to the Security Council [S/1100, annex 12].

I shall now read out to the Council extracts from this very interesting document which show what the Commission thought about the proposal of the Government of India to post forces on the "Azad" Kashmir side of the cease-fire iine. (The Commission's view was apparently accepted by the Government of India, as no further mention of this demand appears in either the letter dated 20 August 1948 [S/1100, para. 78], or the letter dated 23 December 1948 [S/1196, annex 4], from the Government of India to the Commission, or in any one of the two aides memoires which formed appendices to the letter of 23 December.)

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"Mr. Korbel (Czechoslovakia) replied that the Commission fully recognized the concern of the Government of India for security, but that in all frankness he had to tell the Prime Minister that the Government of Pakistan was equally fearful of invasion by the Indian forces. The Commission. he said, could not assure either country on this question of security. The present document, he said, was a first step in that direction. If the Commission could succeed in obtaining the withdrawal of Pakistan troops, it would have the obligation, while on the sub-continent, of watching over Pakistan. Once the Kashmir problem had been satisfactorily settled, it would then be the duty and right of the Government of India, should the State finally be placed under the sovereignty of that country, to take all necessary measures for the security of that area.

"The Prime Minister reiterated his fears of possible infiltration with or without the knowledge of the Government of Pakistan and mentioned that the strategic points previously enumerated to the Commission which the Government of India considered that its forces must hold in order to ensure the security of Kashmir. Mentioning Domel in particular, he remarked that, if Government of India forces held that point, a natural boundary between the two would be established along the line of the river, and that Pakistan would, in no sense, be threatend through the occupation of that point by the forces of the Government of India inasmuch as Pakistan was from twenty-two to twenty-six miles distant.

"Mr. Korbel commented that such a readjustment of the front line went beyond the cease-fire and said frankly that the Commission, after giving careful consideration to the Indian point of view in that respect, had not been able to accept the view." [S/1100, annex 12, pp. 103 and 104].

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And here is a perfectly clear and specific statement by the Commission with regard to the state of fear that will prevail in the area which will be evacuated by the Pakistan Army :

> "Part III, section G [of the document entitled "Truce terms transmitted to the Governments of India and Pakistan by the Commission"], recognizes that the Commission cannot prejudge the sovereignty and integrity of the State as a whole. It should not be construed as evisaging the introduction into the area to be evacuated by Pakistan troops of civil or military officials of the Government of Jammu and Kashmir or of the Government of India for the purpose of administration or control."

The representative of India has asserted that the withdrawal of troops as contemplated in this resolution was unconditional. The facts, however, as I showed in my opening speech [761st meeting] are quite otherwise. The Commission assured us that the withdrawal of the Pakistan Army would be synchronized with the withdrawal of the bulk of the Indian Army. Besides, the phraseology of the 13 August 1948 resolution itself clearly showed that a certain action has to be taken by the Government of Pakistan on its side, while the corresponding action has to be taken by the Government of India on its side. It is not that the Pakistan Army would withdraw and then nothing would happen on the Indian side of the cease-fire line. When the Pakistan Army is beginning to withdraw from the State, the Government of India is equally bound to withdraw the bulk of its forces from that State.

Then it has been alleged that the Government of Pakistan has incorporated certain areas of the Kashmir State into Pakistan. I wish to state categorically that this is entirely incorrect. I would quote to the Security Council article 203 of the Constitution of Pakistan which reads as follows :

> "When the people of the State of Jammu and Kashmir

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decide to accede to Pakistan, the relationship between Pakistan and the said State shall be determined in accordance with the wishes of the people of that State."

With the existence of this definite provision in our Constitution, when Mr. Krishna Menon made the remark in my presence that Pakistan had incorporated the Kashmir State already, I was quite a little surprised. What does this show? Does it show what we have incorporated certain areas of the State into Pakistan, or that the relationship of Jammu and Kashmir with Pakistan can be determined only after the question of the accession has been solved?

In this connexion I would like to mention the case of Chitral once again. The Indian representative has stated that Chitral is part of the State of Jammu and Kashmir. We deny it. I do not propose to go into the history of Chitral in order to prove that it was a State which acceded to us lawfully, because the question of Chitral is not before the Security Council. But if Mr. Krishna Menon claims that Chitral is part of Kashmir, would he be willing to count the votes of the people of Chitral in a plebiscite for the determination of the question of accession of the State of Jammu and Kashmir to India or Pakistan? If that were the case I am sure he would speak for another four hours here as to why those votes should not be counted on the Pakistan side.

Allied to this is another matter which I may deal with before passing on to other points. I am amazed that the representative of India should accuse us of not allowing elections to be held in "Azad" Kashmir. Although we have had elections in all the provinces of Pakistan on an adult franchise basis, why have no elections been held in "Azad" Kashmir? The reason is not far to seek. We have scrupulously refrained from interfering with the administration of "Azad" Kashmir; it is the responsibility of the local authorities. If they want to hold elections they are at liberty to do so, but that is a question they have to decide. In adopting this attitude I claim that we have upheld the directive of the Security Council contained in the resolution of 17 January 1948 "to refrain from···

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doing or causing to be done or permitting any acts which might aggravate the situation". It is unfortunate that the very fact of compliance with the directions of the Security Council is being pleaded against us before that very body.

I think it would be interesting to point out to the Council that Mr. Krishna Menon of course claims the credit that whereas there have been no elections on the "Azad" Kashmir side, there have been elections on the occupied Kashmir side. But I think you will be pleased to notice that in that so-called election not a single vote was cast. All the seventy-five members put up under this dictatorial order of the Indian Government were returned unopposed and that is what Mr. Krishna Menon was pleased to call an election. It is a very strange election in which not a single vote is cast and yet India tries to spread it about in the world that elections have been held in the occupied Kashmir side.

Mr. Krishna Menon has pointed out that according to the electoral laws of his country people are forbidden to appeal to religion when asking for votes. It is clear that it might interfere with the freedom of an election if ecclesiastical condemnation and religious fiats were issued threatening with damnation a particular candidate or those who might support him. Mr. Krishna Menon on this occasion tried to take credit for the fact that in his country there is a law by which religious interference is not permitted and the elections are free. But I think it is ungenerous of him not to admit that this law was framed by the British in the year 1920 and not by the present Congress Government and that the law was framed not only for the Indian side of the people in India but that the same law exists in Pakistan also, where similar rules exist regarding the freedom of elections; and we both inherited that law from the British. Therefore, for him to claim credit for something which was done by the British and then come before an international body and try to be so generous was rather surprising to me.

It would be perfectly legitimate in the case of a plebiscite to draw attention to religious, cultural, linguistic, econo-

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mic, geographic, strategic and other ties, affinities and considerations that might sway the choice. So long as nothing has been done to incite lawlessness or to exercise correction, the exercise of all considerations that might affect the choice would be legitimate.

I think that Mr. Krishna Menon—and I bow before him for his knowledge of the English language—forgot to differentiate between the word "election" and the word "plebiscite". Whereas in an election it is the duty of a Government to see that it is free and no religious arguments are brought in, the matter of a plebiscite, wherever it is held, it is held because of religious differences or of ethnic differences or of geographic, linguitic or other differences. Therefore in a plebiscite it is quite legitimate for people to appeal to the electorate for these reasons before they decide whether to accede to one side or the other. In the matter of an election, it is quite different. I am very sorry that Mr. Krishna Menon is not here today to listen to my views personally and that he is not well. I hope he will soon recover. We must realize that we are now dealing with the question of a plebiscite and not an ordinary election, and we must not be confused by the arguments that he advances on this point. In fact, the Prime Minister of India himself emphasized this principle in the telegram of 22 September 1947 to the Government of Pakistan when he characterized the acceptance by that Government of the accession of Junagadh as being "in utter violation of the principles on which partition was agreed and effected". These were the words of the Prime Minister, Mr. Nehru that Pakistan's action in accepting the accession of Junagadh was against all the accepted principles on which India and Pakistan were agreed. But he forgets all those arguments when he applies the facts to the Kashmir case—that is to say, the principle of separating contiguous Muslim majority areas from non-Muslim majority areas and constituting them respectively into the sovereign States of India and Pakistan.

The word "Junagadh" has reminded me of the fact that in both of my speeches I emphasized the case of Junagadh, which is still on the file of the Security Council and which

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India has forcibly annexed; and the State of Hyderabad, which was also annexed by invasion. Not a single word has Mr. Krishna Menon said in his speech in defence of the action of his country in invading and annexing these two States.

The representative of India persists in referring to the question of the so-called accession of the State of Jammu and Kashmir to India. I will simply state that this matter has been disposed of. No party to the dispute can now claim that Kashmir has acceded to it so long as the international agreement subsists, and there is nothing that the party can do to break that agreement unilaterally. The question of the accession of the State of Jammu and Kashmir to India or to Pakistan must be decided by the democratic method of a free and impartial plebiscite.

There are other matters in the speech of the representative of India which are important. But I will pass over them to save the time of the Security Council, especially as these points have been made in this forum *ad nauseum*, and replies to each one of them are already on the record of the Security Council.

There is only one point out of these which I would submit to the Security Council. In trying to impress on the Council the importance of the Commission's resolution of 13 August 1948, the representative of India said quite a lot about the comings and goings and the palavers and conferences that preceded the framing of the resolution and its acceptance by the parties. He said that the resolution was a very carefully drafted document. Immediately thereafter, he ran into some difficulties with regard to the meaning of the resolution of 5 January 1949, especially paragraph 4, which dealt with the question of the demilitarization of the State in the plebiscite stage. Speaking about the paragraph, the representative of India said :

> "As members of the Council know, the word 'disposal' has been used with regard to the Government of India forces in the sense of disposition, not in the sense of throwing away." [767th meeting, para. 147].

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Here, again, we have had quite a lecture on the English language, on the meaning of the word "disposal". He says that the word "disposal" means locating the troops in various areas and not the dissolution or demobilization of the forces. That is what he is trying to do.

If my memory does not fail me, the members comprising the Commission which drafted the very carefully-worded document of 13 August 1948 also drafted the proposals of 11 December 1948, which were later incorporated in the resolution of 5 January 1949. Surely the representative of India should have thought of some better argument in support of his interpretation of the term "final disposal". The word "disposal" is used in both parts of the paragraph and governs the armed forces both of India and of "Azad" Kashmir. If Mr. Krishna Menon reads the meaning in this word regarding his side of the cease-fire line in the sense that the word means location of troops and not demobilization, then the same meaning shall be read into that word used in connexion with the "Azad" troops on their side, which is mentioned in the very next sub-paragraph; and that will mean that Mr. Krishna Menon contemplates the continuance of "Azad" troops on their side of the cease-fire line. I am sure that nothing is farther from his mind than this interpretation which he placed on this word without realizing the consequences. I hope that I have made myself clear.

Paragraph 4 says :

"4. (a) After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaseful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite;

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"(b) A regards the territory referred to in A. 2 of part II of the resolution of 13 August"—which means the 'Azad' Kashmir territory—"final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities". [S/1196, para. 15].

If Mr. Krishna Menon says that the word "disposal" here means location of troops and not their demobilization, then the argument that he has been putting before the Security Council that the "Azad" Kashmir forces must be demobilized is contradicted by the interpretation which is put here, because if the word "disposal" means location, then this clause contemplates the continued location of "Azad" troops also, which I am sure is very far from his mind when he talks in that manner. But when arguments are made in haste and people are carried away by their rhetoric, then the consequences of those arguments are perhaps not realized momentarily.

The representative of India has said a great deal about the provisions of the resolution of the Commission dated 5 January 1949. But the most misleading statement made by him is to the effect that this resolution gives way to part III of the previous resolution of 13 August 1948, in which India and Pakistan reaffirm "their Wish" that the future of the State shall be determined by the will of the people of the State. Much is made of this by Mr. Krishna Menon, and he seeks to characterize India's undertaking regarding a plebiscite as a mere wish—not a resolve, not a commitment, but a wish. Nothing is said by the representative of India about the further and unequivocal undertaking of paragraph 1 of the resolution of 5 January 1949, which reads as follows :

"The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite." (*Ibid.*)

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> I am afraid that the copy of the resolution that he has been reading does not contain this very important paragraph

I do not contest Mr. Krishna Menon's right to talk about the conditions of a plebiscite in the State, but perhaps it is not entirely relevant to the question that is engaging our attention at this stage, which in the problem of demilitarization of the State preparatory to the plebiscite. Whether a certain type of propaganda will or will not be allowed, how and when the refugees will go back to the State, what measures will be taken to ensure to them the right of legitimate political activity, what will happen if local authorities on the two sides of the cease-fire line do not do those things which they are called upon to do under the terms of the resolutions—these are all matters for discussion with the Plebiscite Administrator when he assumes office. He alone has the authority to discuss these matters with those concerned and to take decisions on them. It is not because we have no views on these subjects that I steer clear of them at this stage. It is only because the Pakistan Government does not wish to prejudice these issues beforehand.

The representative of India has pleaded forcefully against any "unsettlement". He said :

> "Any unsettlement can only be based on the appeal to non-secularity; it can only be based on this appeal to religious prejudice." (767th meeting, para. 232.)

I have searched a lot whether we have made such an appeal and to whom, and I admit that I have not been able to find it. What is it that Pakistan has been demanding about Kashmir ? It is not that Kashmiris should be disposed of like goods and chattels to suit the whims and fancies of either the Government of India or the Government of Pakistan. We have always maintained that Kashmiris and Kashmiris alone can decide their own future in a free and impartial plebiscite—and when we say Kashmiris we mean all Kashmiris without distinction of religion.

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The representative of India has levelled certain charges of breaches of international agreements against Pakistan. This is indeed a serious matter, and I would be failing in my duty if I did not refer to them.

The first so-called breach on the part of Pakistan was, and I quote from Mr. Krishna Menon's speech, "withholding information from the United Nations that it was a combatant and that it was a party to the invasion" (767th meeting, para. 193)

I submit that this matter has been considered and disposed of by the Security Council. The Security Council adopted a resolution on 17 January 1948 which called upon the Governments of India and Pakistan to take all measures within their power calculated to improve the situation, and to refrain from doing or causing to be done or permitting any acts which might aggravate the situation. Both Governments accepted this resolution of the Security Council. In utter violation of this resolution of the Security Council and of its acceptance of the resolution, the Government of India mounted an offensive in the State of Jammu and Kashmir some time in the spring of 1948. It was to meet this offensive, into a threat to Pakistan, that a certain number of Pakistan forces were moved into the State of Jammu and Kashmir in the first week of May 1948 in sheer self-defence. When the Government of India mounted their offensive in the State, did it or did it not amount to an aggravation of the situation ? Did they inform the Security Council about their troop movements ?

Against, the representative of India has cited Sir Owen Dixon in support of his contention that Pakistan was an aggressor in Kashmir. I shall, with the permission of the Security Council, read out what Sir Owen Dixon said on the subject in his report :

> "Upon a number of occasions in the course of the period beginning with the reference on 1 January 1948 of the Kashmir dispute to the Security Council, India had

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advanced not only the contention to which I have already referred that Pakistan was an aggressor, but the further contention that this should be declared. The Prime Minister of India, at an early stage of the meeting, made the same contention and he referred to it repeatedly during the conference. I took up the positions, first that the Security Council had not made such a declaration: secondly that I had neither been commissioned to make nor had I made any judicial investigation of the issue; but thirdly that, without going into the causes or reasons why it happened, which presumably formed part of the history of the sub-continent. I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed, on I believe 20 October 1947, by hostile elements, it was contrary to international law, and that when, in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law.

"I therefore proposed that the first step in demilitarization should consist in the withdrawal of the Pakistan regular forces commencing on a named day. After a significant number of days from the named day, then other operations on each side of the cease-fire line should take place and as far as practicable, concurrently. What number of days should be fixed as significant was a matter of detail for them to settle.

"The Prime Minister of Pakistan expressed strongly his dissent from the third of the three positions I took up, that is to say the third of the positions stated above. But he expressed his readiness to accept, in compliance with my request, the proposition that as a first step in demilitarization the withdrawal of the regular forces of the Pakistan Army should begin on a specified day and that a significant number of days should elapse before the commencement of any operation involving forces on the Indian side of the cease-fire line," (S/1791, paras. 21 to 23.)

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To put this in very plain language, here was this gentleman looking into this case and trying to hold a plebiscite. Each time he mentioned the word "plebiscite", India, instead of getting down to brass tacks and talking about a plebiscite, always said: "Pakirtan is an aggressor; please declare that Pakistan is an aggressor", which was quite irrelevant. The Indian team must have repeated this question of aggression so many times that this gentleman must have got sick and tired of it and said : For God's sake stop. Let us take for granted that there was an aggression and let us get on with the plebiscite now." Having mentioned those words which were out of context, the Government of India representative came here and said : "So and so reported that there was aggression." I do dot understand the sense of this logic, when people try to get rid of a certain gentleman because he is talking too much by saying: "All right, take it for granted for the sake of argument that what he says is true, and now let us get on to the real point", and goes on to say : "Now you have admitted there was an aggression."

In the same way, there has been a discussion here about aggression and sovereignty, and so on, for seventeen hours. I do not know what the feeling of the Security Council is. Personally I think you would be prepared to say that we are so sick of hearing this that I would say : "All right, let us take for granted that all these things have happened. What about the agreement for a plebiscite ? Why not get on with the plebiscite ?" Then the Indians will come tomorrow and say that the Security Council decided that there was complete accession, and there was aggression; and there was sovereignty, and therefore there can be no plebiscite. This sort of argument has gone on for so long, for the last eight years, that I am sure we are tired of it, if the Security Council is not.

I have quoted what Sir Owen Dixon said in his report. What does this really mean ? According to my understanding of the English language, which I must admit is imperfect, it only means one thing. That is this : for the purpose of getting the agreement of the Government of India to a plan of

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demilitarization, Sir Owen Dixon was prepared to assume, only for the sake of argument, that when the tribesmen entered Kashmir that was a breach of international law and that the entry of Pakistan troops was also a breach of international law. It meant nothing more than this. In fact, Sir Owen Dixon himself made it more than clear that the Security Council had not made any declaration on the question of aggression, nor had he been asked by the Security Council to go into that question, nor had he himself made any study or investigation of that matter, and therefore he was not in a position to pronounce upon it.

It is quite clear that Sir Owen Dixon was prepared to make a mere assumption in order to put one side the question of aggression, so that progress could be made towards the agreed plebiscite. The representative of India has taken the words out of their context in order to twist them to mean what clearly they do not mean. Incidentally, it is rather amusing to note that the distinguished jurist from Australia was such in the estimation of the representative of India only in respect of this single observation, although according to his own admission, he was neither asked to examine the question of agression nor did he undertake such an examination; but when he formulated his plans of demilitarization and ultimately came to the conclusion that India's agreement would never be obtained to them, he fell from grace and became quite a different personality in the eyes of India.

The next so-called violation is with regard to the non-withdrawal of the Pakistan Army from the State. I repeat that the withdrawal of the Pakistan Army from the State is to be synchronized with the withdrawal of the bulk of the Indian forces on the other side of the cease-fire line. The Government of Pakistan is only too anxious to withdraw all its forces from the State. May I ask if the Government of India is equally willing to honour its international agreement with regard to the withdrawal of its Army and forces ?

Then comes an astounding statement which is utterly incomprehensible to me :

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"Not only has the Pakistan Army not withdran, but the changed conditions in view of the imbalance of forces created by rearmament is such that withdrawal has become practically impossible." (767th meeting, para. 194.)

I really to not understand what this means. Even if the Pakistan Army should have become stronger, when it withdraws it will leave the State with all its equipment. I wonder whether he was referring to the Pakistan Army in "Azad" Kashmir or to the Pakistan Army in our own territory. If he meant the Pakistan Army in "Azad" Kashmir has become stronger, which is not the case, then why should be worry, because we say that when we withdraw, this whole army will go back ? Why weep about it ? Besides, what has the strength of the Pakistan Army within the borders of Pakistan to do with the question of the demilitarization of Jammu and Kashmir under the terms of an international agreement between India and Pakistan on deciding the question of accession by means of a plebiscite ? However, if Mr. Krishna Menon is referring to the fact that our Army has become stronger, let us say in West Pakistan, that has nothing to do with the dimilitarization in the Kashmir State. Perhaps only Mr. Krishna Menon himself knows to what he was really referring.

Pakistan has accepted military aid in order to strengthen its defences. It has been repeatedly asserted that this military aid, and for that matter any equipment that we may have, will not be used for aggressive purposes. The Government of India is also strengthening its armed forces. The only differnce is that whereas Pakistan is receiving military aid, India is taking economic aid and diverting its funds and resources to the procurement of military supplies. This is a very interesting point and I should like once and for all to place it before the Security Council. I am referring to the allegation of India that Pakistan is becoming stronger and stronger.

India itself has recently placed an order for the purchase of sixty-five Canberras in the United Kingdom. The Canberra, as members of the Council know; is a long-range bomber which is used only for offensive purposes. Why is

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India purchasing these bombers and who are they going to be used against? It is only Pakistan and nobody else. India has also placed an order in the United Kingdom for 300 of the best and the largest tanks. Against which country are these 300 tanks going to be used? It is not against China and Soviet Russia, I know that. They will not look towards those countries. Water does not flow up the hill; it always flows down the hill. He dare not look towards Peking or Moscow because they are too big for him. He looks only towards the smaller countries, like the poor Hyderabad State, Junagadh and Kashmir. If we had been equally weak, he probably would have started a war against us by now. All the armaments that India is receiving and preparing are against Pakistan.

Mr. Krishna Menon complained that the British Government was not very kind to his country. But where has India placed these orders? Who has supplied it with all the equipment? It is the United Kingdom. It takes these things from the United Kingdom and then abuses it. From whom is India buying aircraft carriers? It is buying them from the United Kingdom, and then it comes here and abuses the United Kingdom for nothing.

I want to point out that at the time of partition, all the gun factories, the tank factories, the armoured car factories, airplane repair shop factories, were all inside the territory which is today India. Most of the large underground installations of army stocks and munition dumps were in the territory which is now India. Members will recall that the British left the country within two months. They were the quickest quitters that anybydy has ever seen in the whole history of mankind. They left all those armaments in the hands of the Indians. Having withdrawn, they said: "Now, gentlemen, you divide it amongst yourselves." Do you think that India was going to give us a single thing out of those armaments, part of which was our share? It has swallowed all those armaments and they are still in India. It is proceeding to purchase more from Canada, from the United Kingdom and from all over the world. The Americans give

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the money, bags full of dollars, and say : "Oh, you poor boys; you take this money to help yourselves." By obtaining that money, India makes a reduction in its budget, and with the money saved, purchases things from the United Kingdom and Canada.

The position today with regard to armed forces is the following : Air Force—ours is one-third the size of India's, Navy—ours is one-third the size of India's; Army—ours is one-third the size of India's. The money that India is spending on its defence forces, or offence forces, is four times the amount that we are spending. We are spending 75 per cent of our national revenue on defence forces. India, with a budget four or five times larger, is spending 40 to 50 per cent. This is published in its budget. The last time I made this statement, Mr. Krishna Menon tried to deny it. In the latest budget published by India, 40 per cent of the total revenue is going to its defence forces. Why is India trying to build up all these defence forces ? Against whom ? They will never be used against China, I can assure you.

At the time of the partition, the British had their forces in Tibet : they had their battalions, their political officers, their public works officers to look after the roads, and their post and telegraph officers—that all belonged to the British. That country was looked after by the British. It was almost a part of British India, like any of the other States. But when the Chinese Government paid a little attention to Tibet, my friends there said : "Oh, yes; these people look like you; this is your country, by all means come and take it." Behind that request was the might of China, and not the Prime Minister of a small country like Pakistan.

The Security Council must realize these matters. It is responsible for the security and peace of the world. It is the highest authority today in the International organization and these things must be brought to its notice.

I am told that in order to attack a country one must have at least three times the strength of the other country. If

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today we have one armoured division and we want to attack India, which has three armoured divisions, in order to win we would need nine armoured divisions. How can we increase our strength from one armoured division to nine armoured divisions over-night in order to fight against India ?

When India comes before the Security Council and pretends that there is a danger of and it fears an attack from Pakistan, I am reminded of a little story of the wolf and the lamb that were drinking water from the same stream. The lamb was downstream from the wolf, and the wolf turned round and said : "Why are you pulluting my water ?" The lamb replied : "Sir, I am drinking down here below you and you are above me; I cannot be polluting your water." The wolf then said : "You dare to contradict me and call me a liar", whereupon he grabbed the lamb and ran off with him. That is the type of argument which India is now putting forward with regard to the defensive strength of Pakistan, a small country which has practically nothing at all in comparison with what India has, when it claims that we are going to attack it. I think that the world has better sense than to agree to such a flimsy argument.

I assert that the Indian armed might is not there for show. Even as I am speaking before this august body, the Indian war machine is being mobilized and concentrated along the frontiers of Pakistan. We had a press release here concerning the mobilization of the Indian Army on our frontier, and Mr. Krishna Menon said, "There are observers in Kashmir and we have mobilized no army in Kashmir". The mobilization of the Army is outside Kashmir on the borders of West Pakistan. I shall give the Council the official details on this matter. If I say that India possesses a knife in its right hand, Mr. Krishna Menon says, "Come and look, my right hand is quite empty, there is no knife in it"; but he has got a big sword on his left hand side. He then says, "But you never said anything about the left hand side." He is trying to hoodwink the Security Council by saying that they have done nothing in Kashmir. They may have done nothing there, that

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is not our allegation. Our allegation is that they have mobilized troops on our borders in West Pakistan.

Significant troop movements have taken place on the Indian side of West Pakistan since the recent discussion of the Kashmir question in the Security Council began. The information that I am going to give the Council is based on a telegram which I received from my Government, and the telegram is based on army intelligence reports and other reports which our Governmont possesses about the troop movements of India on our borders. We released this information by way of a press release here, and it was based on this official telegram and not on newspaper information which was conveyed to us. This is official Government information.

The principal moves were as follows :

"(1) 166th Brigade (5th Division) has been moved from Dalhousie (Punjab, India) to Pathankot on the Indo-Pakistan border;

"(2) 77th Infantry Brigade (5th Division) from Dharamsala to Amritsar"—which is within thirteen miles of our border—"relieving 123rd Brigade (27th Division) which is now being deployed in the Khemkaran-Rajoke area between Ferozpur and Wagah"—That is also on our border.

"The net result of these movements is that India now has two complete divisions, plus one independent brigade, on the East Punjab—West Pakistan border, and, in addition; one division, the 4th Division, at Ambala, and two independent armoured brigades at Patiala.

"Thus the over-all position is that India now has three divisions, plus three detached brigades, on the Jammu and Kashmir border."

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Now these are the figures in Kashmir State :

"Three divisions, plus three detached brigades, on the Jammu and Kashmir border, three divisions, plus one independent brigade and an armoured brigade on the East Punjab border, making a grand total of six divisions and four brigades, plus an armoured brigade, against West Pakistan.

"There are indications that one armoured division is also moving from its present location at Jhansi-Babina."

In view of these developments, my Prime Minister broadcast to the people of Pakistan on 16 February and I quote in part from his statement, as follows :

"Whatever may be the reasons for these movements, the action of India will have dangerous consequences. So many troop movements along the border, digging trenches, taking up strategic positions, may provoke border incidents which may become serious. I have issued instructions to our Army and our people not to be provoked under any circumstances. Clashes on the border will suit India, and may even be engineered by it in an attempt to prevent the United Nations from considering the matter coolly and calmly. We have, therefore, to be all the more careful that we do not get excited and that we do not fall into a trap laid for us."

I should at this stage, like to point out very earnestly to the Security Council that question is very serious. You do not know, gentlemen, the danger that you are facing, and it is really the duty of the Security Council to take some definite steps to resolve this dangerous situation. Otherwise, the whole of this area will get into a position which we will all regret hereafter. So, something has to be done, and has to be done quickly, and you, gentlemen, have got to stop this progressive

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deterioration between these two countries. I should not say more. I think you know what the position is, and if you do not take any action, well, it is your responsibility.

Mr. Menon again said. "Now there are forty-five battalions of the 'Azad' Kashmir forces..., officered, trained and equipped by the Pakistan Army" (769th meeting, para. 58). The conclusion which it is sought to draw from this is that demilitarization of the "Azad" Kashmir area is not possible. I am sorry, but I have not been able to understand that argument. I would, first and foremost, like to state categorically that the "Azad" Kashmir forces do not number forty-five battalions. I have said before, and I repeat, that not one soldier has been added to the strength of the "Azad" Kashmir forces since the time the cease-fire became effective.

So, when this area is demilitarized, what will happen? The Pakistan Army will withdraw from the State, taking out all its eqnipment and personnel. The link between the Pakistan Army and the "Azad" Kashmir forces will thus be broken. What will be left in "Azad" Kashmir will be the people of the area itself. There will be no officer of the Pakistan Army in command of any "Azad" Kashmir forces when the Pakistan Army withdraws from Kashmir. The reason that there are some Pakistan officers in top positions in the "Azad" Kashmir forces is that, in agreement with "Azad" Kashmir Government, the Pakistan High Command is in over-all command of all the forces that are now in that area.

Then a reference was made to the alleged violation by Pakistan of the cease-fire agreement. The cease-fire agreement was concluded on 27 July 1949. According to the terms of that agreement, all violations of the cease-fire are reported to the two States and to the United Nations Military Observers Group. There is a procedure laid down for that purpose. The Security Council receives periodical reports from the United Nations Military Observers Group. Let it declare after reference to those reports, whether the allegations made in this respect by the representative of India are correct. I assert that those allegations are completely baseless.

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The representative of India has more than once quoted from the third interim report of the Commission words to the effect that, while the situation in the State has changed, the resolutions remain unchanged' That report was submitted by the United Nations Commission for India and Pakistan on 9 December 1949. All that the Commission said, I submit, was—and I quote from paragraph 283;

> "The period of investigation has been completed. Within the framework of its terms of reference, following in its endeavours the provisions contained in its resolutions of 13 August 1948 and 5 January 1949, the Commission feels that the possibilities of mediation open to it have been exhausted. Over a prolonged period, in a changing and dynamic situation and restricted by long-standing related clarifications which proved to be a real impediment to reaching agreement, the framework of the resolution of 13 August has become inadequate in the light of the factual conditions in ihe State. The Commission has been unable, therefore, to mediate much beyond what is today a rather outmoded pattern. The State of Jammu and Kashmir has not been demilitarized, as was envisaged in part II of the resolution of 13 August, and until this is achieved the conditions necessary to the holding of plebiscite cannot begin to be established. As has been seen from those parts of the report entitled 'The "Azad" Kashmir forces, and 'Withdrawal of forces, the Commission believes that the problem of demilitarization must be treated as a whole, and that the distinctions relative to demilitarization which exist in the division of the problem into truce and plebiscite periods as visualized in the original plan of demilitarization has proven one of the most difficult obstacles in achieving agreement on the problem. It is evident that the presence of large number of troops in the State is not conducive to the creation of a peaceful atmosphere. The demilitarization of the State is essential to permit the holding of a free and unfettered plebiscite."

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The Commission's report continues, in its paragraphs 284 and 285 :

> "It is imperative that a settlement of the Kashmir issue be reached, and the Commission believes that it can be reached. To this end, conditions should be established at an early date which will make possible the holding of a plebiscite whereby the wishes of the people of the State regarding the future of the State may be freely ascertained.
>
> "The Commission doubts whether a five-member body is the most flexible and desirable instrument to continue in the task. In the Commission's view, a single person can now more effectively conduct the negotiations which, to be successful, must be carriect out in active and constant consultation with the two parties. The designation of a single person with broad authority and undivided responsibility offers a more practical means of finding the balance and compromise necessary to advance the settlement of the dispute."

The context in which this phraseology was used by the Commission is clear. In the light of the changed circumstances, the Commission suggested two things : first. that demilitarization should henceforth be brought about not in the two stages, as envisaged in the resolution, but in one stage; second, that the Commission should be dissolved and that its place should be taken by a single individual. Those were the only two changed circumstances; the resolution stood; the circumstances were changed in those two directions. There was nothing more that the Commission meant by the phreseology which the representative of India has quoted more than once.

Let us see whether or not these recommendations by the Commission were accepted by Pakistan. I beg to submit that they were. Daspite the fact that demilitarization in a single, continuous process worked against the interests of Pakistan, the Government of Pakistan, in a sincere effort to go forward

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on any reasonable basis, accepted this proposition. What did the Government of India do? It secured the concession that was offered, and thereafter dug its toes in and refused to agree to any reasonable plan of demilitarization in a single, continunuous process.

I need not repeat the story. The number of occasions on which the Government of India refused to accept clear-cut and specific proposals for the demilitarization of the State have already been enumerated by me in my opening statement; and, despite his efforts, the representative of India has not been able to say that even one of these proposals was found acceptable to the Government of India. Surely, there should be some limit to intransigence.

In his address to the Council on 15 February, Mr. Krishna Menon read out certain portions of what purported to be the views of a certain Australian correspondent who was recently in Kashmir. It appears from Mr. Krishna Menon's version that this Australian newspaper correspondent was giving his impressions "in an informal meeting with the local newspapermen" in Srinagar on 7 February 1957 [769th meeting, para. 156).

There is not time enough to recall all that India has been doing by way of the suppression of newspapermen in the part of the State occupied by India. There has been a virtual censorship of press messages going out from Srinagar. Pakistan correspondents and editors have never been allowed to go into the State. Foreign correspondents have been excluded so far as possible. Only a few chosen ones have been taken on conducted tours of the State. Not only have newspapers in the State been suppressed for demanding a plebiscite, but newspapers in Delhi and other important towns which have pleaded for a fair deal for the Kashmiris have either been suppressed or harassed in other ways.

I would mention here what happened as recently as the first week of the current month to two foreign correspondents visiting Srinagar. One was correspondent of the "Daily Mail", Mr. Richard Greenough. This is what he said in a dispatch from Srinagar dated 4 February :

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"Two recent demonstrations of mob violence against myself and another British correspondent here were carefully 'fixed' by a high quarter of the Kashmir Government. I have good grounds for believing. Demonstrations were intended to impress on me the pro-Indian feeling of the people here and also the degree of hatred and bitterness felt against the British, the United Nations and the West generally for favouring the Pakistan request for a plebiscite. They were also intended to try to scare me off talking to those who oppose integration with India. They undoubtedly exist, stifled though they are."

Another correspondent who visited the area was Mr. Stephen Harper of the "Daily Express". This is what he said about his experiences in Srinagar in a dispatch published in the "Daily Express" on 5 February 1957 :

"In this capital city of the 'Valley of Fear', I learned today how a plot was laid to set the mob against me. The 'Valley of Fear' is in Kashmir—where India's Premier Nehru keeps a puppet Government in power with the support of 80,000 Indian troops.

"The puppet Premier is Bakhshi Ghulam Mohammed. He had declared 'the irrevocable accession' of Kashmir to India without Kashmir's 4 million people having a say in the matter.

"I had scarcely arrived in the Srinagar capital last week when a mob swarmed round my car. They shouted 'Murder him—we don't want British reporters here." Car doors and canopy were ripped off. Hands grabbed and tore at my clothes. Little baskets of charcoal—carried around for heat—were poured over me and burned my face.

"Today I discovered that the mob gathered as a result of a telephone call from a Goverement official to the home of the brother of the puppet Premier Bakhshi.

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"The idea was to try to convince me that the people of Srinagar favour integration with India, as Bakhshi has decreed.

"Secondly, assembling of the mob was an attempt to try to frighten me out of trving to contact opponents of the Bakhshi regime. In both ways the plot failed.

"I now have evidence that Sheikh Abdullah—hustled out of premiership and jailed in 1953—is still the darling of Kashmir, and a party called the Kashmir Political Conference carries on secret meetings in mosques.

"Besides my sources for this news, I have heard of two other attempts to contact me. Last night I was warned that I am a target for the mob because my paper is critical of Premier Nehru. News of the 'Daily Express' campaign urging a fair deal for Kashmir has spread to this remote valley."

I am mentioning these recent incidents because Mr. Krishna Menon has chosen to inform the Security Council of what an Australian correspondent was reported to have told Indian newspapermen in Srinagar on 7 February. The fact, however, is that India's policy has consistently been to screen off the area from foreign correspondents. Whenever, under pressure of world opinion, India has allowed foreign correspondents to go to Srinagar, we have had reports on conditions which would interest this Council.

A correspondent of the London "Economist" made the following report in a dispatch which appeared on 20 August 1955:

"As things are, the average Kashmiri has no desire to be assaulted by the paid bullies of the present Kashmir Government's so-called 'Peace Brigade' or to be arrested on some specious charge and to be locked up without trial. His resentment smoulders, but it seldom bursts

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into flame. Kashmir is quite a well-run Indian colony··· Bakhshi Ghulam Mohammed, the present Prime Minister of Kashmir, looks like a moustached Mussolini and often talks like one."

The London "Times" of 14 October 1955 published the following report from its correspondent in India :

"The Government of India is still practising censorship by refusing to allow British correspondents to visit Kashmir. Representatives of the 'Daily Telegraph' and 'Daily Express' have failed to obtain the necessary permits and have left the country."

The London "Daily Telegraph" of 14 October published a dispatch from its correspondent, Mr. George Evans, which said, in part :

"This morning when I withdrew my application after a vain eighteen-day wait for an entry permit to Kashmir, a New Delhi Government spokesman insisted that my application had not been refused. It was merely 'delayed'.

"This statement was made despite the fact that since my application was first submitted the India Ministry of Defence, which controls the issue of permits, had given one to a Japanese correspondent within two days of his application."

In its issue of 21 October 1955, the London "Daily Telegraph" published another dispatch from the same correspondent, Mr. George Evans, writing from Muzaffarabad, "Azad" Kashmir—that is, from the free side of Kashmir. In this dispatch, Mr. Evans said :

"Recent reports of disaffection in 'Azad' Kashmir emanating from India are not in accordance with the actual conditions which I have observed in the course of a two-day visit here.

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"The most striking contrast is that, while Mr. Nehru's Government excludes observers from Indian-occupied Kashmir whom it suspects might voice criticism of conditions there, no such discriminatory censorship is applied this side of the cease-fire line...

"Permission to enter 'Azad' Kashmir necessary, but it seldom takes more than a few hours to get it. The day after applying, I drove unconducted across the frontier."

A correspondent of the London "Times" who secured permission to go to Srinagar sent a long dispatch to his newspaper, dealing with the activities of the "Peace Brigade" in Anantnag. This correspondent of the London "Times" said :

"One man had torn nostrils and another claimed that his teeth had been knocked out by members of the 'Peace Brigade'. Two shopkeepers complained that they had been robbed during unofficial searches and others said their shops had been looted. A women in a highly hysterical state said that she was afraid to go home because of constant harassment. She was the widow of a Muslim killed during the tribal invasion while escording Hindu refugees, and she alleged that compensation awarded to her had not been paid because she was a supporter of Sheikh Abdullah.

"Mr. Beg said that physical injuries were inflicted on two occasions when his brother, G.M. Beg, was publicly welcomed after his release from prison and when shopkeepers declared hartal last week after one of their number alleged that he had been beaten and robbed by members of the 'Peace Brigade'.

"One of the town's leading traders appeared before this correspondent with bruised and bandaged faced. To top all this, the correspondent himself was approached by a member of the 'Peace Brigade', who demanded informa-

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tion such as his name, address, nationality and purpose of his visit.

"The Indian Government often behaves as if its moral duty is to defend dependent peoples, and it is therefore surprising that so little attention is given to the political welfare of 4 million Kashmiris for whom it is ultimately responsible.

"Generous Indian economic aid and indeed the intelligent development programme of the Kashmir Government tend to conceal the methods of that Government that are totalitarian in concept and occasionally border on outright terrorism in practice."

May I also recall to the Security Council the beating administered to Mr. Ashoka Mehta, a prominent member of the Indian Parliament who, on a visit to the Kashmir State, had the audacity of suggesting a fair deal to the people of Kashmir. This incident was fully reported practically in every important Indian newspaper.

Then the Council has before it the testimony of such a distinguished Indian social worker as Miss Mridula Sarabhai with regard to the conditions prevalent in Indian-held Kashmir. She was an inmate of the Gandhi Ashram for years and later became Assistant Secretary-General of the Indian National Congress. After she had written the letters which have been circulated to the members of the Security Council, the Indian Prime Minister had her thrown out from the New Delhi Constitution House, a Government hostel, where she had stayed for a number of years. It was recently reported in the Indian Press that the Indian Prime Minister had her ejected from a meeting of the Congress, at which she was present and which Mr. Nehru was addressing. I have requested that her letters be released as a United Nations document as well as the letter of Sheikh Mohammed Abdullah, the veracity of which has been admitted by Bakhshi Ghulam Mohammed, the present Prime Minister of Kashmir. This is what has happened

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to a lady of very high rank. She is a daughter or sister of one of the biggest textile manufacturers of India, and she has spent her whole life in social service for the benefit of the people. She has been in the forefront of the Congress Party—that is Mr. Nehru's party. The moment she utters a word in favour of the people of Kashmir, Mr. Nehru throws her out of the hostel in New Delhi, which is a Government building, and he ejects her from the meeting in which she is sitting. To give that treatment to a woman of status, position, a woman who is a friend, a friend's daughter : it can only happen in India.

Mr. Krishna Menon had been trying to create an impression, here and outside, that it is entirely immaterial what world opinion thinks of Pandit Nehru's attitude in Kashmir, of his intransigence and defiance of this international body created by the Charter, to which India has subscribed.

At this stage I should like to refer to a speech that Mr. Nehru made on 3 February 1957 in connexion with the election campaign. Having seen that his Government was being condemned by the Press of the whole world for not allowing the plebiscite in Kashmir, and being convinced of his position, that he had fallen in the eyes of the whole civilized world in this matter, he made a remarkable speech at this public meeting. He said :

> "Gentlemen, I am told"—I suppose he referred to the world Press and world political opinion—"that I have fallen in stature. But what does it matter what the whole world thinks? My stature depends on you, my people."

That is the value that Mr. Nehru attaches to world opinion, to the Security Council, to the United Nations and to the world Press. He says, "Let them say what they like. So long as my people, you people, are with me, I do not care for world opinion". When you are dealing with a man like that, I do not know what method you can employ in order to incline him to honour his pledges given to the United Nations and to the Security Council,

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when the man does not care for public opinion, the public opinion of the whole world. I think that Mr. Krishna Menon wasted your time when he came here and argued his case for seventeen hours when his Prime Minister has no intention of carrying out his international obligations.

I am sure that members of the Security Council have seen some of the comments that have appeared in the Press the world over which have severely taken Pandit Nehru to task for his Kashmir policy. Among these are such distinguished papers as the "Manchester Guardian" and the "New Statesman and Nation" of London, both of which are great admires of Pandit Nehru. Mr. Kingsley Martin, who is the world-renowned editor of the "New Statesman and Nation" of England, is a fast friend of Pandit Nehru and has been such for the last twenty or thirty years. Mr. Kingsley Martin has brought out a leading article against Mr. Nehru, his friend, condemning him for not allowing a plebiscite in Kashmir and for dishonouring his international agreement. What further proof do you need of world opinion in this direction? In the face of Mr. Nehru's wholly unreasonable attitude in Kashmir, the world Press has been forced to revise its estimate of Mr. Nehru. Such distinguished papers or magazines as "The New York Times", the "Christian Science Monitor", the "Washington Post", the "New York Herald Tribune", "Life" and "Time" in the United States, the "Times", "Observer", the "Daily Telegraph", the "Daily Mail", the "Economist", to mention only a few of the British papers, and leading newspapers in Canada, France, Switzerland, Norway, Sweden, Australia, Burma, Indonesia, South America and other countries have expressed views on this matter which are wholly uncomplimentary to the Indian Prime Minister.

I have with me a very interesting cartoon. I think that if Mr. Krishna Menon were here he would regret having referred to one newspaper correspondent on whom he tried to pin his faith. I have here the latest edition of "Punch", the periodical. Here on this page—I will pass it on—we see a cartoon

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where Mr. Nehru has one body; he has two heads. On one side of his head, in one hand, he is holding a dove of peace and a little twig. On the other side of his body near his face there is a big sword and underneath is written on the sword side "Kashmir"; on the dove side "Suez Canal".

I would venture to say that on no single issue has world opinion expressed itself so clearly and so vigorously as in the case of Kashmir, and the Council would agree with me that almost the entire volume of this opinion is critical of Pandit Nehru's policy in Kashmir. Mr. Menon advises the Security Council to disregard this expression of public opinion the world over. We have compiled some of these comments and editorials, and although these are only a fraction of what the world Press has said, I would request that the compilation be circulated as a United Nations document.

I, of course, agree with the representative of India that the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949 are "the only international engagement that exists". Since these are international agreements, and binding international agreements, there is no relevance to Mr. Menon's laboured discussion of the present effect of unaccepted offers by the Government of India to hold a plebiscite in Kashmir. These offers, and for that matter the 20 August 1953 agreement between the Prime Ministers of India and Pakistan that a fair and impartial plebiscite was the most feasible method of ascertaining the wishes of the people, as far as the Security Council is now concerned, are simply demonstrative of India's long-standing announced intention to hold a plebiscite in the State. What is now before the Security Council is the implementation of the international agreement between the Council, India and Pakistan to hold that plebiscite.

No change has taken place as may absolve the Government of India of its international commitment to a plebiscite. Any change that may have taken place is due to unilateral action taken by the Government of India in clear violation of the provisions of the International agreement. Even these

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changes are such as can be easily undone without causing any harm to either side.

The representative of India has reminded the Council that it is not a legal tribunal. Surely he does not mean by this that the Security Council is unable to appreciate the nature of the obligation embodied in the international agreement—an obligation which he says his Government and his people "have no intention and...shall at no time violate" [767th meeting, para. 85]. What is the nature of that obligation? Mr. Menon points out that the holding of the plebiscite must await the demilitarization of the State of Jammu and Kashmir. This is undoubtedly correct. With respect, I should like to point out that Mr. Menon's further argument, that because demilitarization has not been accomplished the obligation to hold a plebiscite falls, is utterly untenable. In fact, it is an attempt by India to take advantage of its own default. The settlement of the Kashmir dispute, according to the international agreement, must proceed step by step. The step that must now be taken is to secure the demilitarization of the State. It was with regard to this next step that my original remarks on 16 January were addressed [761st meeting]. We have tried every method recommended by the Charter, by the Security Council and by the Commission and by the United Nations representatives—and Kashmir is still not demilitarized. There is now before the Council a draft resolution [S/3787] weich addresses itself to the next step.

I do not understand Mr. Krishna Menon's dissatisfaction with the supporters of this draft resolution and the manner in which he has expressed that dissatisfaction. It is interesting, to note what Mr. Krishna Menon has said. He has accused Sir Pierson Dixon—or is it the Government of the United Kingdom?—of a "lapse from fortitude and wisdom" [769th meeting, para. 53]. Mr. Krishna Menon has taunted the representative of the United States with having proposed something that is against international law, unethical and inequitable; although he does not impugn Mr. Lodge personally, whom he regards as a man "of great simplicity of mind"—I do not know whether Mr. Lodge will consider that as a campliment—

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"frankness, and candour of expression" [Ibid., para. 99]. Mr. Krishna Menon charges the representative of Cuba with not having understood history, political philosophy or the record of the Security Council in respect of Kashmir. The representative of Iraq was chided for having committed the offence of referring to the brotherhood of Islam. Mr. Krishna Menon contrasted it with human brotherhood. If he had read the Koran, from which he is often fond of quoting, he would have known that the concept of the brotherhood of man and of tolerance for all peoples, irrespective of race, creed, colour or caste, is fundamental in Islam. It is one thing to put these things down in a Constitution and quite another thing fully to comprehend them. A little later in his speech Mr. Krishna Menon plainly accused the representative of Iraq of having departed from the truth.

Here, I should like to make a few comments. When Mr. Krishna Menon was commenting on the speech of the representative of Iraq, his last sentence was : "One must stick to the truth even when one wants to be polite." [769th meeting, para. 119.] That means to say that the representative of Iraq had strayed from the truth. And that is a point which I feel that the Security Council cannot pass over lightly.

If an advocate before a High Court Judge, a Supreme Court Judge, or even an ordinary Magistrate, accuses the Judge or the Magistrate of departing from the truth, that is an insult which, when offered to a judicial authority, would bring the confiscation of a lawyer's licence to a practise. If a sentence like that accusation—and a false accusation—were uttered by a Member of Parliament, the Speaker would call upon that Member to withdraw that word. Otherwise, that Member of Parliamet would be expelled from the House. I feel that it is commensurate with the dignity and honour of the Security Council that the parties who come before it to argue their cases must control their language and speak in a respectful manner which is in consonance with the high office which the Council holds; and I hope that it is for the Council now to take steps to defend it own honour and prestige so as not to set an example by which, in future, parties who come before it

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can insult it to its face in the manner in which the representative of Iraq has been insulted.

When dealing with other representatives on the Security Council, Mr. Krishna Menon has employed a technique which is well known to us in India and Pakistan, but which may not be well known to the Council. He began to criticize Sir Pierson Dixon very strongly, and when he saw a smile—as I did—on the face of Sir Pierson Dixon, he must have realized that the days when we could accuse the British in India, and they were frightened of us, had gone and we are now a free country, and that Sir Pierson was probably thinking : "Well, my friend, you are a free country; you must now look after yourself." Mr. Krishna Menon must have felt immediately that he had made a mistake in attacking Sir Pierson, and so he softened. He tried to cajole him : "When I was High Commissioner for India in London, the British gave us a lot of supplies and arms, and so on. and we have been friends; we are in the Commonwealth, and we are a sister country, and we are brothers." Then he proceeded almost as if he was kissing him on both cheeks. This sort of conduct of a party using strong language against representative on the Security Council and then changing to another sort of language, thinking that the representative might get angry, a language to cajole him, is an advocacy which I have very seldom come across.

I could have said a good deal about the remarks Mr. Krishna Menon has made about each representative—about the representative of Cuba, the representative of the United States, and so on—simply because if a representative on the Council does not agree with him he resorts to these personal attacks. However, I believe that representatives can defend themselves.

Instead of examining personalities, let us examine what the representatives on the Council have said about the draft resolution. This document has been explained exhaustively by the sponsors. My Government takes note of the following clarifications of the draft resolution that were offered by the sponsors in the course of the debate on 15 February 1957 [768th meeting].

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The representative of the United Kingdom said :

"As regards other conditions for progress towards the settlement, perhaps I should indicate what we have in mind in including this in the draft.

". . . This, then, is one condition for progress which indeed should be examined—the need for a decrease in tension—and there are doubtless other matters. I think, for instance, of clarification of the position of the Plebiscite Administrator, which the President may think would repay examination with the two Governments. But all this examination is governed by the phrase 'having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan'. That point is fundamental.

". . . The draft resolution, therefore, provides for a procedure which, we trust, will enable progress to be made, but not through the medium of public debate, during the next few weeks. Yet, the need to make progress is pressing, and for that reason the draft resotution proposes a definite time-limit within which the President should report to the Security Council; for the Council cannot fail to take up its task again at the earliest possible moment." [768th meeting, para. 16 to 19].

The representative of the United States said :

"The draft resolution which has been introduced by the Governments of Australia, Cuba, the United Kingdom and the United States (S/3787) builds upon these points of agreement. It thus lays considerable stress on the importance of achieving demilitarization. Four of the preambular paragraphs refer to this problem.

"The task which we are suggesting that the Security Council assign to its President also emphasizes the efforts to achieve demilitarization. In this connexion, a proposal

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has already been put forward as a suggestion by which the present deadlock might be broken. This was the proposal of the representative of Pakistan at the 761st meeting, to the following effect :

" 'The functions of protecting the State and ensuring internal security should be intrusted by the Council to a United Nations force which should be introduced into the area at once.' [761st meeting, para, 112].

"We have thought it desirable to note this proposal by the representative of Pakistan for the use of a temporary United Nations force in connexion with demilitarization."

"As I indicated earlier, the United State believes that we must build upon the gains which have been made before. The President, in undertaking this mission, is accordingly to do so having regard to the resolutions which have been adopted on Kashmir by the Security Council and the United Nations Commission for India and Pakistan He is also to bear in mind the statements of the parties and specifically the proposal for a United Nations force. As the President of the Council, he will also no doubt bear in mind the statements of the members of the Council." [768th meeting, paras. 32 to 36].

The representative of Cuba said the following :

"The Cuban delegation therefore believes that this draft resolution would lead to the holding of a plebiscite. . .

". . . Therefore. for us . . . . the problem of the plebiscite is something that has been definitely settled and agreed upon by the parties. All that has to be done is to bring about conditions in which the plebiscite can be held.

"From the Indian representative's statement here and also from the statements I have quoted, it seems clear

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that India has at no time tried to retract its promise to hold the plebiscite, since it laid down conditions under which parts I and II must be complied with before part III can be carried out; and there would be no reason to speak of the fulfilment of conditions for a plebiscite if no plebiscite were to be held. This. in our opinion, is crystal clear. We therefore believe that the draft resolution we have submitted is an attempt, by entrusting the President of the Council with this task, to bring about the conditions which will allow the holding of a plebiscite." [*Ibid.*, paras. 95 to 99].

The representative of Australia stated the following :

"The Council has all along attached great importance to the adaption of appropriate measures of demilitarization in the State of Jammu and Kashmir as a necessary step towards the holding of a free and impartial plebiscite. It is well known that negotiations on detailed practical measures to bring about such demilitarization have not in the past been successful. This is the most immediate problem to which, in our view, the Security Council should bend its present efforts.

"The draft resolution refers to the proposal of the representative of Pakistan for the use of a temporary United Nations force to facilitate agreement on effective arrangements for demilitarization. The idea is perhaps not a new one, but it gains in interest and importance from the recent experience of the United Nations in the establishment and operations of the United Nations Emergency Force in Egypt. Without drawing any parallel between the situation that led to the General Assembly's decision to establish that Force and the problem of securing appropriate measures of demilitarization of Kashmir as a preliminary step towards holding a free and impartial plebiscite, it would seem to us very difficult for anybody to deny that the use of such a force, in so far as it might contribute towards demilitarization,

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would, in the words of the draft resolution 'deserve consideration'. It is the hope of the Australian delegation that this proposal will receive full and sympathetic consideration by the Council and the parties." [*Ibid.*, paras. 52 and 53].

Apart from these clarifications and explanations as to its objective offered by the sponsors, my Government also notes the following from the speeches of the representatives of the Philippines, China and Iraq with regard to their understanding of the contents of the resolution and its objectives.

The representative of the Philippines said :

"Although the representative of India has dealt with the question of aggression anew, I do not thing that the Council is called upon to make any finding as to whether there has been aggression and by whom it was committed. It should be recalled that the charge and countercharge of aggression ceased to be relevant the moment both sides agreed to the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949." [*Ibid.*, para. 104].

The representative of the Philippines then went on to say :

"The will of the people of Jammu and Kashmir, according to the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949, which have been accepted by both India and Pakistan, is to be ascertained by the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations. The other provisions of the resolutions mentioned are clearly subordinated to that end. The provisions relating to the cease-fire and the truce arrangements are aimed simply at the creation of conditions to enable the free and orderly attainment of the prime objective. Whatever changes may have

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occurred in the situation since the resolutions of the Security Council were passed, it is submitted that the principle underlying those resolutions cannot be changed because it is unchangeable." [*Ibid.*, para. 110]

The representative of the Philippines, further on in his statement, went on to say the following :

"The draft resolution before us meets all the requirements of the situation and. without departing from the sound and practical course heretofore followed by this organ of the United Nations, opens the way realistically to a settlement which, if the parties are minded to coexist in peace, should be final and conclusive.

"The proposal does not deviate from the course we have followed, it recognizes the absolute necessity of demilitarizing the disputed region as a condition precedent to any genuine plebiscite. None of us here will dispute the proposition that no plebiscite is possible in a setting of war like appearances. The first and most important condition to a free election is that the people should be able to go to the polls without fear in their hearts. Any sign of coercion would make the true expression of the people's will impossible. Those of us who have been used to the democratic way of life will readily admit that any plebiscite worth its name must be conducted other conditions of absolute peace if it is to be regarded as valid and conclusive.

"We can assume that one of the principal concerns of our President when he goes to the sub-continent is that the ground is properly laid for the untrammelled exercise of popular suffrage when the plan of a plebiscite, which is the Security Council's decision, is actually carried out.

"Finally, the reference in the draft resolution to the proposal made by the representative of Pakistan that a United Nations Force be assigned to Jammu and Kashmir as a temporary means toward the achievement

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of demilitarization is in line with my Government's views that the idea merits full consideration." [*Ibid.*, paras. 118 to 121].

I must apologize for these quotations, but I am going to draw a conclusion from them as regards the draft resolution. That is my only reason for quoting them.

The representative of China said :

"Therefore, what this draft resolution tries to do is to further the implementation of the resolutions which the Council or the Commission has already adopted. The co-sponsors have told us and the language of the draft resolution states that all those resolutions stand.

"...So we have to devise a scheme to take care of these two requirements : first, the peace and security of the State during the plebiscite; and, second, that the force that maintains peace and security should not coerce or intimidate or give the appearance of intimidating the voters. These are the two requirements that we must always keep in mind in solving this problem of demilitarization.

"I do not know of a better way of meeting those two requirements simultaneously. With the temporary use of a United Nations force in Kashmir, we can contribute to the maintenance of peace and security in that State during the plebiscite. In the second place the stationing of a temporary United Nations force in Kashmir cannot be suspected by anybody of intimidating or coercing the voters to vote in favour of either of the two parties. Therefore, I find that this idea of a temporary United Nations force really deserves consideration," [*Ibid.*, paras, 124 to 130].

The representative of Iraq said the following—and this is the last quotation :

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"The whole issue centres around one major question, namely, that of the establishment of conditions under which a free and impartial plebiscite could be conducted. It will have been realized that all the resolutions, negotiations and reports were endeavours to promote such conditions. It could therefore be said that this problem, which was from its very beginning a clear one, at times had been obscured by the introduction of a number of elements foreign to it and sometimes quite irrelevant." (769th meeting, para, 17.)

The representative of Iraq then said :

"The passage of time has neither changed the principles upon which the future of Kashmir was to be decided nor has made the method of plebiscite less applicable now then it was eight years ago." (*Ibid.*, para. 21.)

The representative of Iraq concluded his statement as follows :

"We believe that the draft resolution submitted by Australia, Cuba, the United Kingdom and the United States (S/3787) contains all the elements necessary at the moment for taking certain positive steps in the solution of the Kashmir dispute". (*Ibid.*, para. 27.)

The Government of Pakistan is grateful to the members of the Security Council for the clarifications of the draft resolution which they have been kind enough to give publicly. In view of these clarifications, I take great pleasure in informing the Securing Council that my Government would accept the draft resolution that is now before the Security Council and has authorized me to assure the Security Council that the distinguished President of the Council will receive all possible co-operation from the Government of Pakistan in his difficult and responsible task.

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My Government has complete confidence in the ability and impartiality of the President of the Security Council, Mr. Gunnar V. Jarring, Ambassador of Sweden. Let us hope that his mission, which is to bring about demilitarization of the State of Jammu and Kashmir, preparatory to the holding of a plebiscite under the auspices of the United Nations to determine the question of the accession of the State to India or Pakistan, shall succeed.

My Government is happy that the Security Council has noted the proposal that a United Nations force be sent to the State of Jammu and Kasnmir in order to facilitate its demililitarization in accordance with the terms of the international agreement. I would humbly submit, once again, that in our view this is a good way of making progress towards the agreed objective, namely, the plebiscite. Over the course of the last eight years the Government of India has rejected, one after another, eleven proposals to bring about the demilitarization of the State. The various procedures laid down in Chapter VI of the Charter have been tried without success. If the situation is not to erupt into a catastrophe, something positive must be done to demilitarize the State thus making it possible for the plebiscite to be held without further delay.

Mr. Menon has said, and I quote him :

"The Government of India will in no circumstances permit foreign troops on its soil." (769th meeting, para. 153.)

I submit, Mr. President, that Kashmir is not Indian soil. The question of any foreign troops going on Indian soil does not therefore arise.

Mr. Krishna Menon is a clever lawyer. He has left sufficient scope in these words to argue when he returns, after having agreed to everything, to say, "The meaning of my words were 'our territory', which was Indian territory but not Kashmir territory—which was not our territory". Therefore

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we should not be dismayed by the use of these words by Mr. Menon because he has left a loop-hole for himself.

The distinguished representative of India has also raised objections with regard to the United Nations force on the score that it may not succeed in demilitarizing the area. We have never suggested that the force will go round the army barracks in Kashmir and force the troops to surrender their arms. The disarming and disbanding of forces is under the terms of the international agreement the responsibility of the representative or the Plebiscite Administrator, as the case may be, The object of the entry—and I specially draw the attention of the honourable member of the Soviet Union of a United Nations force is simply to create confidence in the minds of the two sides which should enable them to proceed without fear to the discharge of their obligations under the international agreement. As soon as the United Nations force enters Kashmir both sides must, strictly according to the terms of the international agreement, start withdrawing their forces, which operation would be followed by disbandment of the "Azad" Kashmir forces and further reduction in the forces on the Indian side of the cease-fire line.

Now, this thing must be clearly understood, that this United Nations force is going into Kashmir with the consent of both parties, in the sense that both parties have agreed to demilitarize. and both parties have agreed to withdraw their forces. It is in pursuance of that agreement which has been made by India and Pakistan before you here, for demiliiarization, that this force is going. Therefore, for anyone to think or imagine that this force is going against the wishes of the people of Kashmir, or India, or of Pakistan, would be wrong.

If India said today: "We will not admit the force", then it would be going against its agreement made before the Council that they will demilitarize. This force is now being sent there from the Pakistan side to occupy the frontiers, to prevent war between the two, and to remove fear from the mind of each that the other will invade if they withdraw. Therefore, when this United Nations force has gone to the

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cease-fire line, then India, having already agreed to withdraw its forces according to the resolution—international treaty, I call it—must withdraw. Therefore if anybody argues, and I want to address this point to Mr. Sobolev, that these troops are going there—forced on India—he is wrong. We are agreeing to it, and India has already agreed to demilitarization, therefore its consent is presumed.

Consequently I think the only way of ensuring peace now inthat area is that the United Nations troops should go there, and we allow them to go to our area to occupy our cease-fire line. In which case, India already having agreed, and now I am sure It will agree again—when the President goes there—that if our troops go, it will be willing to go. If we confirm the original agreement, then Indiais agreement can also be presumed, then the troops can go in. But we ourselves do not want to hand over the cease-fire to a few policemen from the United Nations, and then tomorrow India may invade our side and be a danger to Pakistan. The troops are being sent and will be sent only when there is a presumption that both parties are willing to agree to demilitarize and accept these troops. We are giving our acceptance now. Indiais acceptance, the President will secure, I hope, when he goes to New Delhi.

Therefore the question of forcing the troops into that area does not arise, If anybody has been arguing—especially the Russian delegate—I hope he will bear in mind my interpretation of the request for troops : that is the willingness of the parties to receive the troops that will ta. e the troops there. If India is fighting and will not in any case allow the United Nations troops to go there, then we may not be willing to allow our troops to move out in order to make raom for the United Nations troops unless India has also agreed. Therefore we must help the President in solving this problem. We must give him a chance. We must give him this authority. When he has been to New Celhi, then he will return to report to you and there will be sufficient time for every member of the Security Council to reconsider this matter in connexion with the troops.

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At the moment we are only authorizing the President to go and to negotiate with India to find out whether India is willing to receive the troops or not, and if so, on what conditions; and if it is not, how are they going io implement the international treaty ?

Nothing is going to happen with regard to these troops until the President returns and reports to you on the opinion of India with respect to this subject. Then the Council will have plenty of time to assess the situation and consider this point. I am saying this because yesterday a certain rumour was spread by a certain quarter—which did not come from the Soviet Union, I know. That is why I felt it necessary to explain the question in this way since I did not have an opportunity of seeing the representative of the Soviet Union to explain this to him before. The troops are not being forced, and after the President returns the Council will have the time to consider this.

The Council also has before it the amendments proposed by the Soviet Union with respect to the draft resolution (S/3789). The decision on these amendments as well as the draft resolution is, of course, one for the Security Council. We have given careful consideration to these amendments and suggest, with due respect, that if adopted, the Soviet Union amendments would remove from the resolution an authoritative and valuable pronouncement on the present status of the disputs and the lines along which a solution must be sought. The significant area of agreement between India and Pakistan which the Security Council is seeking to build would be overlooked if the Soviet Union amendments were accepted. The usefulness of the purpose of a United Nations force which, though unexplored, has certain distinct possibilities, would be ignored.

Further, these amendments would severely restrict the authority of the President of the Security Council in seeking to develop proposals for the demilitarization of the State. The draft resolution speaks of examining proposals which in the Presidentis opinion are likely to contribute to the achievement

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of demilrtarization. The amendments restrict the President to examining the present situation and the progress that can be made. The Soviet Union amendments would unfortunately remove the deadline date for the President's report on demilitarization—a provision which my Government considers vital in view of the present mounting tension over this dispute.

Mr. Krishna Menon, in the course of his last interventoin, has tried to differentiate between the case of Algeria and Kashmir (769th meeting, para. 112), but I cannot follow his arguments. Did he mean to convey to the Security Council that because Algeria was conquered by the French some 130 years ago it has earned the right of liberation and self-determination, whereas Kashmir was conquered by Indian troops only nine years ago and therefore the struggle for liberation by these people cannot be rated on a par with the struggle for liberation of the Algerian people? Or is it that because the people of Kashmir, having placed their faith in the Security Council, have, under great provocation, refrained from reacting violently against the Indian forces of occupation, Mr. Menon does not consider them to be human beings worthy of the name? Is Mr. Menon waiting for Kashmir to erupt like Algeria before he will concede that the move for liberation by the people of that area is on the march?

The fact is that Kashmir did erupt some nine years ago but failed to engulf India because the Security Council solemnly promised to its people a fair and just solution through peaceful means. If that promise is not kept and if that solution is not allowed to go through, then it is much to be feared that Kashmir may rival or even outrun Algeria in respect of the heart-rending happenings in the latter country.

I am most grateful to the President and the members of the Council for having listened to me patiently, because I full realize that my speech has been quite a long one this morning which is unusual, and which the Council does not expect from me.

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162. *Text of the speech made by Mr. Sobolov (USSR) in the Security Council meeting No. 770 held on 18 February 1957.*

The Security Council has heard statements by the representatives of India and Pakistan, and by members of the Council, on the question of Kashmir. The Soviet Union's general position on this question was outlined at the Security Council's meeting on 24 January [765th meeting, paras. 81 to 88].

The Soviet Union's view, and its basic premise, is that the Kashmir question has in actual fact already been settled in essence by the people of Kashmir themselves, who consider their territory an integral part of the Republic of India. Having attained their rights as an autonomous State within the united family of Indian peoples, the people of Kashmir have assumed an active part in the peaceful constructive work in which the whole country is engaged, and have scored considerable successes in the field of economic, social, cultural and political development.

Some States, however, do not want to acknowledge the great changes which have come about in Kashmir in the last few years. They continue to foment an artificial hue and cry on the subject of the so-called "Kashmir question" in order to force the reconsideration of the decision taken by the people of Kashmir themselves. This hue and cry will in no way help to bring about the re-establishment of normal conditions in the area, and it is diametrically opposed to the vital interests both of the people of Kashmir and of the peoples of India and Pakistan. The object of those who started this hue and cry is not to find a solution to the differences still outstanding between India and Pakistan, but rather to aggravate them. In fact, they are urging the Security Council along the same path, by calling on it to ignore the changes that have taken place in Kashmir and to try to force the solution of the Kashmir question into the Procrustean bed of the old resolutions.

The Security Council would be committing a serious mistake if it were to recommend any measures whatsoever with-

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out taking into account the extent to which they corresponded to the true situation and the vital interests of the people of Kashmir.

The Security Council cannot ignore the facts which have been placed before it notably in the statement made by the representative of India. The facts show that in the many years that have passed since the Security Council adopted its resolutions on the holding of a plebiscite, the situation in Kashmir has changed considerably. We must not forget that the idea of a plebiscite in Kashmir now meets with the objections of one of the parties; that it has in fact been rejected by that party. At the present time, the holding of a plebiscite in Kashmir, with outside interference in one form or another, as proposed by some members of the Security Council, can serve only to excite local conflicts and to complicate the international situation in the area. The task of the Security Council, however, is to strengthen peace and tranquility in the area. In these circumstances, what useful purpose will be served by including in the Security Council resolution a clause providing for the holding of a plebiscite in Kashmir ? Clearly, no purpose at all.

Nor, in our opinion would there be any point in making a reference in the resolution to the Pakistan representatives' proposal concerning the use of United Nations forces in the Kashmir region. The United Nations Charter provides clearly and unambiguously that United Nations armed force can be used only to repel aggression and to restore international peace. The Charter of the United Nations makes no provision for the use of armed forces for any other purpose. It goes without saying that the Charter does not provide for the use of United Nations forces to impose by force a plebiscite in any country. Thus, the introduction of a United Nations force into Kashmir would be completely at variance with the principles of the United Nations Charter and would be an outright insult to the national sentiments of the people Kashmir.

That being so, the Soviet Union delegation will vote against the inclusion in the draft resolution of any provisions which do not correspond to the true situation in the Kashmir

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area, which fail to take into account the vital variance with the principles of the United Nations Charter.

The Soviet delegation would however be prepared to support proposals calling for the suspension for a certain time of the Council's consideration of the Kashmtr question. During that time the members of the Council could study the documents which have accumulated, and the parties directly concerned could make a further effort to settle their differences by means of direct negotiation.

In the Soviet delegation's opinion, the parties are far from having exhausted all the possibilities for a peaceful settlement of the Kashmir qnestion by means of bilateral negotiations without outside intervention of any sort. Such a procedure would be fully in keeping with the principles of the United Nations Charter, as also with the interests of the people of Kashmir and of the people of India and Pakistan.

The sponsors of the draft resolution have told us that the purpose of the resolution is to try a new—and I would stress the word "new"—approach to finding a peaceful settlement of differences between India and Pakistan. This new approach consists in requesting Mr. Jarring, the President of the Security Council, to go to the area and examine with the Governments of India and Pakistan the situation in Kashmir and possible means of setting the existing differences. If this is indeed the purpose of the draft resolution, there can be no objection to it. In that case, however, there is no need to tie Mr. Jarring's hands by proposals which, even at the stage of their discussion in the Security Council, have been objected to by one or other of the parties—and we have heard such objections in the Security Council.

The representative of Colombia, Mr. Urrutia, has made a very interesting proposal here. If I understood him rightly, he proposes that the preamble to the draft resolution, with the exception of the first paragraph, should be deleted [768th meeting, para. 86]. The delegation of the Soviet Union supports this idea; however, it would be desirable to modify not only the preamble but also operative paragraph 1, by deleting from it

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any proposals to which objections have been raised.

The delegation of the Soviet Union therefore presents the following amendments [S/3789] to the draft resolution submitted by Australia, Cuba, the United Kingdom and the United States [S/3787] :

"1. Replace the preamble by the following text :

" '*Having heard* the statements of the representatives of the Governments of India and Pakistan.'

"2. Amend paragraph 1 of the operative part to read as fallows :

" '*Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan the situation in respect of Jammu and Kashmir, and to consider the progress that can be made towards the settlement of the problem, bearing in mind the statements of the representatives of the Governments of India and Pakistan.'

"3. In paragraph 3 of the operative part delete the words: 'but not later than 15 April 1957.'

The last amendment is to delete the reference to a specific date for the presentation of the report. Mr. Jarring should be at liberty to present his report whenever he deems it oppropriate.

These amendments are intended to remove from the draft resolution such provisions as have been objected to by one of the parties directly concerned, while retaining the nucleus of the proposal, as we understand it, namely, the request to the President of the Security Council to examine the situation in Kashmir with the Governments of India and Pakistan and to report to the Security Council.

The delegation of the Soviet Union hopes that these amendments will be accepted by the sponsors of the draft resolution and supported by the other members of the Security Council. The delegation of the Soviet Union is of course ready

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to discuss with the sponsors of the joint draft resolution the best way of including in it the idea underlying the Soviet amendments.

163. *Text of the speech made by Mr. Krishna Menon (India) in the Security Council meeting No. 772 held on 20 February 1957.*

I would like, first of all, to express my deep regret that I may have contributed to the prolongation of the proceedings of the Security Council by my inability to be present here at the last meeting. I have done the best I can to meet the convenience of the Council and the necessities of the case by coming to the meeting this morning. I also would like to express my regrets to the Foreign Minister of Pakistan for not having had the privilege of listening to his observations in person, but I have read them with great care.

On behalf of my Government I have intervened in this debate on three different occasions and made statements which go into considerable detail, all of which my Government regards as essential and relevant. The fact that the Security Council has given it the attention it has, is proof of its importance. I have read the nearly sixty pages of the Foreign Minister of Pakistan's statement and if I were going to take this on the basis of answering it paragraph by paragraph and dealing with accusations and allegations, it would take another lengthy statement. I am sure it would not be the wish of the Security Council that I should do so. And without in any way adopting the tenor of that speech, I would like to say that I have no intention of answering the personal attacks and reflections upon my country contained in it, nor have I any intention of asking the Council to consider certain expressions used, and the reference to certain fables and so on, which my Punjabi friends would say are not in good taste and therefore I will not touch on them.

At the same time, since, so far as the Government of India is concerned, its position has been affected in this matter on several ocasions by allowing things to pass without an attempt

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to place them on record, I propose to take only such categories of points that have been raised and refer to the total mis-statements of act, and I have a responsibility to the Government of India and to this Council to correct these mis-statements because then affect the relations between our two countries, the status of this Council and the peace of the world. These mis-statements are an attempt to confuse the issue. It would be wrong for me to say they reflect any confusion in the mind of the author—that would be impolite.

The first of these is to ridicule the idea that the Government of India has repeatedly referred to the facts of accession, aggression, sovereignty and such other matters; and my distinguished colleague found these words—I will not say offensive—rather boring. But they are the basis of the problem. Of course if you get the basis out of the way then you can do what you like with it in your own direction. But that is the basis of the problem. It was the basis of the problem when we came here; it has continued to be the basis of the problem at every meeting of the Commission, at every meeting of the Council, in every assurance that has been given to the Government of India—was known to the Government of Pakistan publicly—and therefore we make no apologies for this, And what is more, the Government of India will not resign from its fundamental position : that Kashmir—until something else may happen, as I said before—is an integral part of the Union of India by its Constitution, by what it has derived from the British Parliament by the fact of international law and—if I may say so without going into legal argument—I believe the British Government has the greatest experince in this matter in its relations with Portugal. Any municipal law which is generally accepted in other parts of the world attains the status of international law even if it is not incorporated. Here is a situation which is common to great parts of systems of parliamentary government where was as a successor State, inherited our status, our functions and our power by parliamentary legislation and by authority conferred by the British Parliament accepted by two sides, That has been the basis of our position from the beginning. I do not want to elaborate this because I have gone into it in

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great detail.

If I correct mis-statements of fact, it is only because the Security Council should be aware that on behalf of the Government of India no statement—and I say this without qualification—has been made before the Council which is not supported by documentary evidence and if any statement is challenged we are prepared. If we are wrong, to withdraw it, but there will be no occasion for doing so.

Now we did make a point that Pakistan delayed its acceptance of the 13 August 1948 [S/1100, para. 75] resolution; not in order to make a point of chronology but because it was that delay which enabled Pakistan to make the military advances that it hoped to make. And in the meantime, between 13 August 1948 and 5 January 1949, many things happened and it had rejected the resolution, and the Commission says so. The Foreign Minister tells us that this is not the case. He says : "We accepted it a little later; we did the same as the others." Let me read to you what he said :

> "It is very significant to note here that whereas Pakistan took a little time, a month or two"—a month or two is from August to December—"in asking for clarifications and then accepting, along with India, the resolution in toto, Mr. Krishna Menon tried to create trouble because of this two or three months delay." [770th meeting, para. 9]

With great respect, what I do here is not the concern of the Foreign Minister of Pakistan. I am not a subject or a citizen of Pakistan; I represent my Government and I wish in the future he would be a little more careful in making references to me.

What are the facts ? The facts are—and this refers to the 13 August 1948 resolution—that Pakistan took a long time. Pakistan made a reply fairly soon, but this was a reply not of acceptance but a request for clarification. The Commission said the reply had the character of a rejection. This is what the Commission said :

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"The Commission observes with regret that the Government of Pakistan has been unable to accept the resolution" —that is, the resolution of 13 August 1948; these are not my words—"without attaching certain conditions beyond the compass of this resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations between the two Governments and the Commission to bring about a peaceful and final settlement of the situation in the State of Jammu and Kashmir." [S/1100, para. 108.]

There was no question of Pakistan accepting the 13 August resolution. It rejected it; and it rejected it for the simple reason that it did not want a cease-fire at that time. This is not a question of chronology only. It is a question of the reasons why this was brought about. Therefore, first of all, the facts are not as stated, and it is incorrect for the Foreign Minister of Pakistan to suggest that we have misquoted anything or misrepresented his position. We rely on the Commission's reports.

Now, the next point I want to deal with, not in detail, because there is not enough time, is with regard to what I call "assurance". Here I would request the members of the Security Council to study the documents which are before them; they will have the time to do so, I hope. Now the assurances that are given to India are of a categorical character, that is to say, the Prime Minister asked certain questions. "Is this 'a, b, c' ? This is our understanding, 'x, y, z'. Do you agree ?" And the Commission said, "Our interpretation correspouds"—whether it be Mr. Korbel or Mr. Lozano; they give a categorical statement. Therefore, three is a query and an answer which makes a complete affirmation. That is the position with regard to the assurances given to India. These assurances are part of the documents of the Security Council. They are the assurances given by the Commission, whether it be given by the Chairman or not. The assurances given to Pakistan were, I believe, with two exceptions, of an entirely different character. The Pakistan Government asked certain. And the Commission did not say :

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"We agree with this" or make certain interpretations. It did not say : "We agree with this". It said : "We do not agree with this" or "We mean something else."

Now the most characteristic example of this is the one to which the distinguished representative, I believe it was the United Kingdom or the United States, I forget which one, referred to the other day, about the synchronization of withdrawal. Now, the Commission told Pakistan that, "What we mean by synchronization is very different from what you mean by synchronization." Now, I do not call that an assurance. In an assurance the two pieces must fit together. In our case, they did. Every one of our assurances are of this character. And my submission is that so far as assurances are given to Pakistan we can only call them so-called assurances.

Secondly, the assurances given to us were published; they are not secret. Pakistan accepted the two resolutions after those assurances were known. The Government of India cannot accept the position that one can read these documents separately from the resolutions of the United Nations Commission for India and Pakistan, which were accepted, and the assurances which were endorsed by the Security Council.

Then we come to another aspect which is very important. I have no personal feelings about this matter, but Mr. Noon accused me of misinterpreting the paragraph in the resolution which refers to the truce lines [770th meeting, paras 17 ff.]. This has reference to part II, section B, paragraph 2, of the resolution, which reads as follows :

> "Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the commission are considered necessary to assist local authorities in the observance of law and order..." [S/1100 para. 75.]

We made the point that this was part agreement that was reached, that it was the responsibility of the Govenment of

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India for the security of the whole State. It has to go to the assistance of the local authorities. The "local authorities" was the name used exclusively for the entities in the occupied area. Subject to this, in the State of Jammu and Kashmir, the Indian Government had to maintain its forces within the lines existing at the moment of the cease-fire.

Now, the distinguished Foreign Minister tells us that these lines—he used the plural—refer to different cease-fire lines [770th meeting, para. 19]. I refer the Security Council to its own map. This is the map, which unfortunately does not have a page number, but it appears at the end of the third interim report of the Commission. I do not know whether anybody can see it (indicating), that is the cease-fire line. There is only one line. There are not two cease-fire lines. I have behind me the military attached of the delegation of India to the United Nations who spent three years in Kashmir in the campaign. What is more he has spent the whole of his military life in the Punjab—the area we are referring to. The lines that are referred to are the battle lines, the disposition of forces as they were then. There can be no other lines. There was only one cease-fire line. Does the Security Council believe that after all these months of discussion the Commission would have put in here a plural which has no meaning ? Would the Commission have repeatedly stated the Government of Jammu and Kashmir, he Government of the whole State as being local authorities ? The "local authories", as I have pointed out, are the words used in relation to the occupied area. Therefore, I do not propose to go into all the dissertations in the Oxford dictionary. The meaning is very clear. At that time we were thinking in terms of a quick cease-fire. So far as we are concerned, there has been no attempt to mislead the Council. We have never misled the Council and we do not intend to do so. If our case is bad at any point, we are prepared to accept that decision. There is only one cease-fire line which therefore establishes the position.

What is more, clear on, Mr. Korbel, who was Chairman of the Commission, said that the responsibility for law and order, which includes security, is that of the Government of India. This is another part of the assurances which are in your

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documents, so you cannot get away from that one.

We come next to the question of incorporation. The Foreign Minister of Pakistan was surprised that we brought this matter up just now. Though he said that I—presumably the Government of India—make trouble, we do not chase trouble. We know that *de facto* this territory has been under the authority of Pakistan since the cease-fire and the deterioration of the situation, since it disregarded the injunctions of the Security Council and acted as though to reap the fruits of invasion. But it was only when Pakistan took an overt illegal action that the Indian Parliament sat up and took notice. It was not as though the Government made this difficulty. The Indian Parliament naturally turned around asked : how is it that a neighbouring State has a right to part of a territory that, under the Indian Constitution, is Indian ? No country represented here would permit that. Pakistan accepted Chitral's accession, which it had no right to do, because Chitral had no right to accede as it was only a feudatory State. There is all this reference to how the people of Chitral will Vote. You know that it is a very dangerous thing for a gentleman to come here and tell us how people are going to vote, because that knocks the bottom out of free elections, if anybody announces how people will vote before the vote is taken. That is why we did not bring up Chitral until the Pakistan Constitution was enacted.

Then, the representative of Pakistan informed the Council —I will try to make this as brief as I can that the incorporation of Kashmir is provided for in article 203 of the Constitution of Pakistan [770th meeting, para. 25]. There it says that when the issue is decided, Kashmir shall become part of Pakistan. My submission is that the reference is to that part of Kashmir which it does not have. That incorporation refers to that part of Kashmir. That is what article 203 is for. The present thing is covered by article 1, clause (2), sub-clause (c), of the Constitution to the Pakistan. I think I circulated it. I am speaking from memory. I believe it definitely says that every area under Pakistan administration is part of the State of Pakistan. And this area is under Pakistan's administration—so it is *de facto* and this has been stated by the Commission. What is more, it

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is administred by Pakistan. There is a Minister of Kashmir Affairs. There is no question that this is under Pakistan administration.

If it is contended, as it is sought to be implied in a later paragraph, that we cannot ask these people to have elections because they are independent, does the Security Council believe that these peoplo are capable of raising forty-five battalions of artillery and infantry with modern equipment, part of which was supplied to Pakistan itself by foreign countries ? Are they capable of bringing these arms to that level ? What is more, there is a submission made by their own administration, not ours, which the Pakistan Government regards as the national movement in the "Azad" area, their memorandum to the Constitutuent Assembly of Pakistan [S/PV. 762/Add. 1, annex III, sect. 1], complaining about the way they are being treated. The phrase, I believe, is that they cannot even appoint a peon —peon means a porter, a messenger, something of that kind —in "Azad" Kashmir. This is position about incorporation.

Then there is a reference in three different places which is very vital to us in regard to what we consider as the essential in any kind of election or plebiscite—that is, freedom from religious propaganda. That is to say, no one shall be subjected to the threat or to the fear that he will suffer disabilities in another world if he votes in this way, that way or the other way. This is not only against the character of a secular State, but against the whole conception of the United Nations. It is embodied in our various declarations, and I have quoted them. The Foreign Minister of Pakistan said that the Government of India can claim no credit for this, which was done by the British Government in 1920. Well, the British Government did a lot of good things as well as a lot of evil things. They did a lot of good things and when we adopted them they became ours. But in fact, that is not the case. The wording of the election law I read out to you is our own. I am not sure that the British wording was not better phrased, but here it was ours. However, that is not the main point. The main point is that I am surprised and rather worried about the fact that the Foreign Minister of Pakistan made a difference, a distinction—

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and do hope that some of his very trusted friends will listen to this—which either the United States or the United Kingdom has not made in any plebiscite for over thirty years—between an election and a plebiscite [770th meeting, para. 32]. He suggests that it is right in an election not to appeal to these things, but that in a plebiscite you can appeal to anything. If that is so, then we know where we are.

The next point to which I want to refer is the charge levelled against us in regard to the 5 January 1949 resolution [S/1196, para. 15]. I will state on behalf of my Government that the 5 January 1949 resolution elaborates part III of the resolution of 13 August 1948. It is not a separate document or a separate agreement. After five months of negotiation, the Commission said ; "If part I and part II are observed, we will then come to part III. Then the two Governments confer. This is a plan upon which you can work. "I think nobody put it better than the representative of Colombia, whose speech I read: "it is not enough to draw up a contract; it has to be signed by both parties". [771st meeting para. 11]. Here, however, it goes farther than that. This is merely a working plan. It is like an architect's blueprient. If all the blueprints made by architects were buildings, then I am afraid the world would be overbuilt. That is the pasition.

I want to go back to the Commission. The Commission talks about the 5 January 1949 resolution. Mr. Lozano, who was Chairman of the Commission, makes a reference to this which is contained in the third interim report of the United Nations Commission for India and Pakistan :

> "Mr. Lozano explained that the proposal did not supersede part III of the resolution of 13 August, but were an elaboration of it."—that is exactly what the Government of India said.—"They did, however, take priority over the consideration of alternative methods..."

That is to say, the Government of India has suggested that while it is true we are discussing plebiscites, if we want a settlement, why do we not consider every thing else ? Therefore,

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Mr. Lozano said in effect. "Let us get through with this plebiscite bussiness and see whether we cannot do it in this way. If we cannot it in this way, we will do it in some other way". The statement of Mr. Lozano continues as follows :

> ". .and every effort had to be made towards putting these proposals into effect. It was in this connexion that Mr. Lozano expressed that view that if the Plebiscite Administrator should find a plebiscite impossible for "technical or practical reasons", he or the Commission would then recommend to the Security Council a solution different from that of a plebiscite and acceptable to the Government of India and Pakistan."

This makes it quite clear that the 5 January 1949 resolution has no life. I think that is the only way to put it. It is inanimate without part III of the 13 August 1948 resolution. The 13 August resolution has the character I have mentioned to you. It is an obligation upon us, after parts I and II are performed after law and order is restored, to confer with the other side about the fair means of a plebiscite. Now, how can you get away from that ?

My colleagues tell me in private that this is against that, and that is against that. I want them to answer this question. Just because one promises to discuss a plan, does it mean that one agrees to the principles of it ? No. We said : "If the plebiscite comes, we shall do it this way, that way or the other way".

Great play has been made both by the Foreign Minister of Pakistan and by his friends of the fact that the first paragraph of the 5 January 1949 resolution refers to a plebiscite and they say it is on this basis that this programmes rests in order that this may be done, and a certain course may be followed. Therefore I refer you to the quotation I have just read out. I do so beause I do not want the Security Council to be left in any doubt. We would sooner lose a point than try to mislead the Council. If our position was the other way, we would not have been in such a situation.

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With regards to the withholding of information, the Pakistan Government did not convey to the Security Council the information it should have conveyed and the Commission time after time has said that this makes a difference.

Let us take the point that the United States and United Kingdom are so obsessed about : demilitarization. I do not use the word "obsessed" except in a very textual sense. Sir Pierson Dixon is a classical scholar and has an accurate mind, and so he would not mind.

It is said that demilitarization is the crux of the matter. Now I invite you to read statement after statement of the Commission where it said that the whole of this demilitarization question has been bedeviled by the fact that, after the acceptance of these documents, i.e., even after 13 August 1948 and even after 5 January 1949, the Commission come to know about the build-up of the "Azad" foces, about the creation of an army, about the annexation of the territory, about the occupation of the northern areas. In fact, Pakistan disregarded all the resolutions from 17 January 1948 onwards. I cannot understand this very un-Anglo-Saxon procedure of taking up a thing at one and forgetting the whole background of it.

The whole of this demilitarization procedures have been bedeviled by this, and that has arisen from the fact that the Security Council was not informed. The Security Council was informed, I think, on 15 January 1948 that the Pakistan Government was not concerned with these marauding raids. It denied our charges. The Pakistani said they were not there, but soon afterwards the Commission found them there. The information about the "Azad" forces was also not given. What did the Commission say about it ? It said, "This constitutes a material change in the situation". A material change is a change that goes to the root of the matter. When you have a material change, how can you go on playing about with the words that were written down without taking that into account? That is why the further assurances were to come.

I should like, therefore, to request the Council to read the assurances given by Mr. Lozano to the Government of India in

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regard to large-scale disarming and disbandment of "Azad" Kashmir forces and the wording used to the Pakistan Government which unfortunately, if I may say so, for him, the Foreign Minister of Pakistan has quoted. Mr. Lozano said, "The disbandment is not contemplated by the resolution". In other words, what he said was, "When the resolution was written, you did not tell us about thist we did not know; and that is why we had to give the assurances". This habit the Council has been led into of treating the two sides on the same footing is what has bedeviled the whole situation. What are given to us are assurances. They are protocols to a document. So far as Pakistan is concerned the position is different. What the Commission told Pakistan was that the resolution did not contemplate the disbandment of the "Azad" forces. The resolution could not, because the Commission did not know the forces were there. In other words, he is telling them politely, "If you had told us, it would have been there in the resolution".

On 19 August 1948, the Foreign Minister of Pakistan, in a memorandum attached to a letter of the same date to the Chairman of the Commission, stated :

> "While the Security Council was still engaged on the consideration of the Kashmir case, India was steadly building up its armed forces in Jammu and Kashmir. This building-up process did not cease on 21 April 1948, but was continued and intensified. The Indian Army mounted a big offensive in the beginning of April, thereby causing a materiai change in the situation."—(The Commission has not said this.) "This offensive action has continued ever since. The publicly declared intention of the Government of India was to secure a military decision in Jammu and Kashmir, thus presenting the United Nations Commission with a *fait accompli.* This situation not only put in jeopardy the entire population of the areas under the "Azad" Kashmir Government, and led to a big influx of refugees into Pakistan, but also, constituted a direct threat to Pakistan's security. It was this which compelled the Government of Pakistan to move their troops into

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certain defensive positions." [S/1100, annex. 26, appendix, para. 4.]

This is the defence for its invasion and the fact that it was hidden from the Security Council. This is the Foreign Minister's statement. What is the Commission's answer ? The Commission said, in the letter of 27 August 1948 from the Chairman of the Commission :

> "The Security Council resolution of 21 April 1948 which sets forth the terms of reference of the Commission, was adopted with cognizance of the presence of Indian troops in the State of Jammu and Kashmir. The presence of Pakistani troops in Jammu and Kashmir, however, constitutes a material change in the situation inasmuch as the Security Council did not contemplate the presence of such troops in that State, nor was it apprised thereof of by the Government of Pakistan. The Commission cannot accept the statement in the memorandum that the Commission's quate'.'' [Ibid., annex 27, appendix, para. 4.]

I ask you whether that is not, in polite language, a statement by the Commission, as regards the Security Council's, resolution and the legitimacy of the Indian troops in Kashmir that the incursion of Pakistani elements was concealed from the Security Council, that this was a misdemeanor, an offence against the Security Council and the Charter and therefore constituted a material change, and that it repudiated the undertaking given to the Council itself. This is part of the Commission's statement, and I do not see how the Security Council can overlook it.

There are two references to military aid, in one of which our friends of the Unided Kingdom come in for a reference. There is a reference to the militara aid to Pakistan and the economic aid to India [770th meeting. para. 56 ff.]. I am very sorry to have to go into this, because the arrangements between the United States and ourselves, and in the same category the arrangements with Pakistan, are bilateral. They are published

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documents, and I hope the representative of the United States will not mind my saying that the greater part of the development expenditure in India is our own money, raised from the banks and by way of loans and in other ways; but when the generous aid from the United States comes, it is for specified purposes and we cannot divert it. What is more, it is part of the policy of the Government of India, from which it does not deviate, that for every dollar that is given as aid the Government of India contributes many times more. Otherwise it would not go into the project, because India does not want any project to become dependent upon foreign aid. Therefore, it is wrong to suggest that the economic aid that comes from anywhere else, whether we build plants through the Germans or the Russians or the Americans or the British by long-term loans or what not, enables us to divert our resources. With a few exceptions, this economic aid is not in reference to the feeding of our people, but is in reference to future projects. Therefore, it is not as though we take it from a till and give it somewhere else. I think that this is a gross preversion of the facts and something that my Government cannot let pass unchallenged. I think that it is a slur on the United States Government, which is extremely careful so far as we are concerned as to the way in which the money is spent. We are anxious that it should know exactly where the money goes, because we have no desire to divert any foreign aid, no matter from what country it comes, whether it be under the Colombo Plan or under a United Nations plan, to any other purpose. To make a statement of that kind I think is a very unfriendly act to a neighbouring country which is trying its best to live in friendly relations with its neighbour.

Military aid to Pakistan, on the other hand, is another matter. There are no published figures on this aid. We have some idea of it, however. No one knows the quality of this aid, and, what is more, it is very difficult to calculate the quantity of this aid in dollar terms because a great part of this equipment is material which was left over from the Second World War and which is good enough for use in fighting against us. All we can say is that the quantum of United States aid, as the Prime

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Minister of India stated several times last week, is very considerable and is so considerable as to challenge our security.

I have stated more than once in the Security Council, and I must repeat it now, that we do not question the assurances of the United States Government that this aid is not given for that purpose. But we deny that the United States is capable of preventing the receiver from using it for whatever purpose it wants. That is our position.

Reference has been made to our purchase of bombers in the United Kingdom [770th meeting, para. 57]. The purpose of all this is to create an atmosphere to show that we are embarking upon a large-scale invasion. I am very sorry that this reference has been made, because these Canberra bombers from the United Kingdom have been the subject of negotiation for two or two and one half years. In fact, I believe that I started the negotiation myself. The negotiations have been going on for a very long time. The British are very slow in deliveries because of their own commitments and everything else, and we are every particular about getting them on terms that are suitable to us. The bargaining goes on and the arrangements go on, and all this was finalized the other day. The Government of India deeply regrets that from some source in the United Kingdom not connected with the Government, the information leaked out into the Press at the time when this discussion was taking place. It has been synchronized purely from a propaganda point of view. This transaction constitutes a normal replacement. When the British left, there were other bombers which belonged to the period of ten to fifteen years ago. If one has an air force one might as well have it equipped with modern aircraft. That is all there is to it. It constitutes an ordinary replacement for the bomber force of the Indian Air Command.

Reference was also made to India's retention of large quantities of military material that were left in India by the British [770th meeting. para. 59]. I am asked to make an emphatic repudation of this statement and to express our surprise that the Foreign Minister of Pakistan, even though his relations

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with his Government in an official capacity are recent, should have been guilty of this statement. The moment that partition was decided upon, we set up a Partition Council in which our two sides were represented, and arrangements were made. What was due to Pakistan, we have given to Pakistan. What could not be given, we have paid for. I think, if anything, the balance was the other way round. Therefore, there is no truth whatsoever in that statement, and I am sure that if there was any truth in it, that would have motivated the British to do something about it.

Repeated references were made about Indian troop movements. The purpose of all this was to convey the impression—not so much to the Security Council but to the world—that India was preparing for aggressive action. It is not a secret that India has an army, and we hope it is a good army if the time should come to test its strength. There is nothing very secret these troop movements apart from the normal secrecy which the military maintains. It is not usual to refer to troop movements in a public debate of this character, and quite frankly. I do not know how much of this is what the United States would call classified information. However, since we have been challenged on this, we might as well speak of it.

I am authorized by the Prime Minister of India to state that the whole orientation of this in the sense of troop concentrations anywhere is entirely false. I have stated this once before.

Reference was made [770th meetiag, paras. 66 and 67] to the movement of the 166th Brigade [5th Division], from Dalhonsie (Punjab, India) to Pathankot on the Indo-Pakistan border. This is a normal process which has taken place from British times—it has certainly taken place from independence times. That movement had nothing to do with this particular year. It is something which takes place at this season. It is the normal process of moving the troops in this season of the year. We could not keep them at Dalhousie at this time. It is quite a normal practice for a brigade, upon completion of its training, to return to its permanent location.

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Reference has been made to the 123rd Brigade. All I can say is this : there has been no addition whatsoever to the strength on the East Punjab and West Pakistan border. I submit this is a solemn statement on behalf of the Government of India—we have not indulged in any troop concentrations; in fact, our normal defence against Pakistan, if there should be any trouble, would be by our armed police. It has not always been satisfactory, but it is far better to take the risks of being hit once or twice rather than to take the risk of a general scufffe.

Reference was made to the 27th Division. Here again there has been no change whatsoever—no change in the formation, no change in the units, no change in the strength.

Reference has been made to the 2nd Armoured Brigade. My colleague, the Maharaja of Patiala, who sits behind me, knows that this armoured brigade has been in Patiala for the last six years.

The Security Council was informed that the First Armoured Division is now in Jhansi, presumably banking on the fact that the Security Council would not be familiar with the map of India without looking at it, for Jhansi is very far from the Pakistan border. In fact, this regiment had been at Jullundhar before it was moved farther away to Jhansi.

I note a mark of impatience on the faces of some members, which I can quite well understand. I did not want all these details to be given, but when a Government is charged with the concentration of troops and preparing for war, it is necessary clarify the position. We have done nothing in that direction, even though we have knowledge through our intelligence service of the preparations on the other side and the danger which we are facing. We do not want to be put in the position before the world that we have gone into mobilization and we do not want our people—and this is our greater concern—to get into a war fever. For those reasons there have been no changes whatsoever and I repudiate every one of the insinuations contained in those statements.

I come now to the question of censorship of the Press

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mentioned by the representative of Pakistan [170th meeting, paras. 80 ff.]. I hope that the United Kingdom representative will have something to say on this score. I should like to ask him, through the President, the following question : if a United Kingdom national had been manhandled, would not the United Kingdom Government have taken some action in the matter-privately, publicty or otherwise ? Perhaps the representative of the United Kingdom would tell us sometime whether his Government has any reason to protest.

It is significant that the United Kingdom newspapers which have been quoted by the Foreign Minister of Pakistan are of a particular character—and it is not my intention here to use invectives, because I am polite. The "Daily Mail" and the "Daily Express" have been quoted by the Foreign Minister of Pakistan ; The Kashmir Government has looked into this matter. It has denied a report broadcast by the BBC and the Pakistan Radio (there is a relationship between the BBC and the Indian Radio and the Pakistan Radio; and, therefore, when the Pakistan Radio broadcasts something, the BBC picks it up as normal news) to the effect that two British correspondents who visited Kashmir were attacked by hostile crowds and were unable to leave their hotel.

The Press Note issued by the Kashmir Government reads as follows :

> "There is no truth in the report broadcast by BBC and Pakistan Radio that two British correspondents visiting Kashmir had been attacked by hostile crowds and were now unable to leave their hotel.
>
> "The two correspondents who arrived in Srinagar last week have been afforded all facilities and treated with the utmost courtesy by all concerned. They have been moving about freely interviewing people. The allegation that the two correspondents were attacked by hostile crowds is presumably based on a minor incident which took place a few days back when there was a demonstration in Srinagar in connexion with the Security Council's latest resolution

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on Kashmir"—and I suggest that demonstrations take place in this country, too, when there are draft resolutions befor the Uuited Nations. Our people are allowed to demonstrate. No one was manhandled. The two correspondents, accompanied by a State Government information officer, were going in a jeep when they were caught up in the midst of a group of demonstrators. It is true that the demonstrators were excited, but at no stage were the correspondents attacked or hurt in any way. All the same they were afforded adequate protection by the police. The allegation made in the BBC report that "they were kicked and punched and red-hot charcoal poured from braziers" is absolutely baseless.

"The two newsmen continue to enjoy the various facilities extended to them and have been visiting places. On Sunday"—that is two days afterwards—"they went to Moghul Gardens and today they have gone out duck-shooting."—I submit that the correspondents could not have been very badly burned if they were able to go out duck shooting. I continue to quote :

"The Jammu and Kashmir Government wishes to make it clear that foreign visitors to Kashmir can, as in the past, look forward to all facilities and courtesy due to them as tourists."

In fact, the Kashmir Government has a vested interest in this matter. A considerable part of its revenue comes from the tourist trade, and it therefore does not want to make any difficulty for anyone wishing to come to Kashmir.

I shall not repudiate everything else that has been said by the Foreign Minister of Pakistan in this respect. I would only say that all the United Kingdom newspapers which have been quoted by him are newspapers which, for more than a generation, have attacked Indian Independence. These newspapers have been against the national movement in India. This does not, of course, mean that the United Kingdom Government or the British people are against that movement. In every country

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there must be different organs of opinion. But the fact remains that the newspapers quoted by the Foreign Minister of Pakistan have been against Indian independence and have been particularly bad in reporting the news so far as we are concerned. I have no doubt that some of these reporters wrote one story for the newspapers and told a different story to other people. These are the facts.

At this stage, I should like to read out to the Council extracts from a syndicated column by Mr. Elmore Philpott, a Canadian Member of Parliament, which appeared in the Canadian Press a few days ago. We have ascertained that Mr. Philpott is a gentleman of high repute, whose opinions are respected. In his weekly column, Mr. Philpott accused the Western Press as a whole of being unfair to Prime Minister Nehru so far his stand on Kashmir is concerned. Mr. Philpott said :

> "It never was true that the Indian Army 'seized' Kashmir, as many American newspapers are now stating with complete disregard for actual facts."

Recounting the sequence of events in which "Kashmir was actually invaded by wild mountaineer tribesmen on 22 October 1947, the orgy of violence and destruction" that went on and the signing of the instrument of accession by the Ruler of Kashmir, Mr. Philpott said :

> "While it is true that the Ruler of Kashmir was Hindu, it is equally true that the victims of the invasion of Kashmir were mostly Muslims"—I would remind members of the Council that I have already informed them of this fact—"and the whole Muslim population of the Valley of Kashmir was frantically appealing for protection from wild invaders...The Indian Army at that time was still under the command of the British officers."—the Commander-in-Chief was General Lockhart—"A combat team of 335 men was flown in one of the most timely and clever airborne operations of our times. A small force arrived

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literally in the nick of time to save Kashmir, not so much for Indian as from violence of the mountaineer invaders. It was considerably later when the Kashmir trouble degenerated into actual war between India and Pakistan. For weeks or evan months after the original outbreak, the Pakistan Government tried to convince the world that it had no direct part in the events in Kashmir. Time after time the United Nations arbitrators have found that Pakistan has no '*locus standi*' in Kashmir on any basis of legality...

"Nehru told me in 1951 that he was completely in earnest about permitting a free vote in Kashmir. But he insisted that Pakistan must meet certain prior conditions including complete withdrawal of her armed forces from all disputed territory before the vote."

I have already stated our position with regard to the use of a United Nations force, I shall refer to this question again when we reach the state of discussing the draft resolution.

I have no desire to go into the anecdoes and fables mentioned by the Foreign Minister of Pakistan. I would only say that I deeply regret the way he has chosen to treat this subject, so far as we are concerned. The Security Council must be the judge as to the manner in which we have presented the facts, as we see them, and have sought to rely on the available documents.

At this stage, I should like to make the position of the Government of India clear beyond any possible doubt. Whatever I say in this connexion must be viewed in the background of history—which has been submitted to the Council on many, many occasions—and in the light of all the points that have been outlined to the Council with respect to the position of Kashmir, which is not a no-man's-land.

When, on 1 January 1948, we submitted a formal complaint to the Security Council under Chapter VI of the Charter, we were not asking the Council to settle a territorial dispute. I would ask members of the Security Council whether they can show me any evidence anywhere to prove that a suggestion of

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this kind was made. We came to the Security Council to ask its assistance in obtaining, under Chapter VI of the Charter, the end of an aggression. We informed the Council that, if that were not done, other consequences would follow. Without withdrawing that position, I would say this : at the request of the Security Council and of some of Mr. Jarring's predecessors as Presidents of the Council, we expressed our willingness to consider various methods for a pacific settlement. And I would emphasize that we brought this matter to the Council under Chapter VI of the Charter—a fact which seems to have been forgotten. We could have invoked Chapter VII, but we preferred to invoke Chapter VI. Under the s pecific methods for a pacific settlement, various plans have been suggested. I would submit to the Council that the essence and basis of all these procedures—whether resolutions of the Security Council, requests we have made, or *caveats* we have entered and accepted—is that, whatever may happen in the future, the territory of Kashmir is an integral part of the Union of India, that an aggression has taken place, that the Jammu and Kashmir Government is a sovereign Government, that India is responsible for the security and internal order of Kashmir, that peaceful conditions must be restored before anything else can be done, and that the accession is a continuing accession, capable of termination by the Government of India. Furthermore, we have obtained assurances, which are incorported in a resolution passed by the Security Council itself, that the only legal authority that can do anything in the State of Jammu and Kashmir is the sovereign authority ; this has been emphasized time and time again. Thus, all of the procedures which have been before us have been pacific procedures. In the pursuit of the carrying out of these pacific procedures, two resolutions have been adopted.

The Government of India therefore requests the Security Council to consider, after nine years, whether these pacific procedures have been followed or if they have been violated. Of course, these are minor violations in all procedures; there are minor violations by either side. But are they violations that go to the root of them ? That is the first point. The second is whether these procedures are vitiated by the concealment of

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facts and therefore the whole basis of the approach disappears. Therefore, the Government of India asks compliance with part I, paragraph B of the 13 August 1948 resolution, which is not observed by the Pakistan Government, and is therefore a violation of the cease-fire order.

The Foreign Miniter of Pakistan said that if there were violations of the cease-fire order, the observers would report the violation [770th meeting, para. 73]. In fact, they do there are violations ; sometimes there are violations from our side—somebody goes this way or that way ; sometimes they come in. They are reported and matter is settled. But it is definitely laid down in the cease-fire agreement which concerns the observers that they have nothing to do with political questions. This is a political question. And this is what it says. Part I, paragraph B, reads as follows :

> "The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir." [S/1100, para. 75].

The Government of India categorically states that since the adoption of the 5 January 1949 resolution, Pakistan has introduced into the territory of Kashmir occupied by it very large quantities of military equipment; it has trained a considerable army, it has created airfields and has made it a base of attack against us, endangering our security. Therefore, before we proceed any further, before we even talk about part II, the Security Council, I submit, has a duty in regard to this resolution. There has been a tendency to talk about this as though this is what we undertook with Pakistan, and Pakistan under took it with us. The Security Council told us, "You people settle this on this plan". Therefore, the Security Council took over. Therefore, their moral responsibility is certain and whatever legal responsibilities can be brought to its door under the Charter—it must see that this is carried out. The Government of India is entitled to ask today, after nine years, why the

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materiel brought in after the cease-fire order, apart from all questions of demilitarization, is not removed.

Secondly, Part B does not require any action. In fact, it does not call for any action from India at all. It is an action the Pakistan Government has to take not only in pursuance of this resolution, but also in pursuance of the resolution of 17 January 1948, which they not only violated but acted in such a way as to conceal the fact from the Security Council. Any Government that is guilty of concealing material facts is out of court before the Security Council. Therefore, the Government of India requests the Security Council to interest itself in its responsibility as one of the parties of this matter and to point out that paragraph B of part I of the 13 August 1948 resolution is being violated.

Paragraph E of the agreement states :

"The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotations." [Ibid.]

I have made statements and produced evidence before the Council many times. I did not have too much difficulty because the Foreign Minister of Pakistan himself produced evidence by his statement. His first speech was an ultimatum to the Government of India. Here are reports from the Press in Pakistan which refer to the prepartion of tribesmen for the invasion of Kashmir, and these were not non-Pakistan. Baluchistan is part of Pakistan. These are persons who are in an official position in relation to all of this.

I quote from "Dawn" of 7 February 1957. The "Dawn" correspondent at Quetta wrote as follows under a Quetta dateline of 6 February ;

"A deputation of Afghan Pawindas of the Tarak tribe today waited upon the Political Agent of the Quetta-Pishin area and offered their services of the liberation of their Kashmiri brethren.

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"They said that the Tarak tribesmen were ready to sacrifice their all to liberate their Kashmiri brethren from the Bharati"—that is us—"tryanny".

"The deputation consisted of Malik Khurram Khan Taraki, Malik Akko Khan and Malik Abdullah Khan Hotak".

Here is another article from "Dawn" with a Rawalpindi deteline of 8 February 1957. Rawalpindi is in the Punjab. The article states :

"In the event of the Security Council's failure to bring Bharat"—that is India—"to reason, we shall not hesitate to revive the liberation war to free our enslaved brethren on the other side of the cease-fire line", says a resolution passsd recently at a representative gathering in Skardu...

"We are much perturbed at seeing our brethern in occupied Kashmir marooned into an unconstitutional accession..."

Here is another article from "Dawn" with a Quetta deteline of 9 February 1957 :

"Mir Habibullah Khan Nausherwani"—I suppose he is head of the place, the former ruler of the Kharan State—"today said that he, along with his tribesmen, was ready to sacrifice their all for liberation of Kashmir. He has requested the Additional Commissioner, Kalat Division, to convey his offer to the Pakistan Govenment."

The duty of any civilized Government today, when a citizen of that kind offers to attack a neighbouring country, is to have him taken under its law. Pakistan owes an obligation to the international community, when any citizen of their makes statements of this kind, to take action against him. But, instead of that, our information is that every considerable concentrations are taking place, and, as I have stated before in the Security Council, the pattern is exactly the same as it was in 1947.

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It is our duty under the Charter—and I say this with all the feeling I personally have and that my Government has about war—if our territory is invaded to resist that invasion. And I am directed by the Government of India to repeat what it has said before : that any invasion of any part of India is the invasion of the whole of India. The Government of India would regard an attack on Kashmir as an attack on India and would take action accordingly. That was its position from the very beginning because Kashmir is part of India. Therefore, any attack on Kashmir is an attack on the whole of India. We came here on the last occasion to save ourselves from this position. We said to the Security Council : "This attack means we have to invade Pakistan. We do not want to do that. Please ask them to go away". And this is the result.

Therefore, in the first instance, the Government of India seeks from they Security Council some consideration. Instead of concentratiug all its attention on matters which are incidental to so many things happening before hand, and which are not integral to the settlement, it should obtain the observance of these conditions or declare them aggressors. Pakistan has to withdraw and it does not require any action froma nyone else. I read out to you the Commission's report that it knew that the Indian forces were there and the responsibility they had for the defence of India. Therefore, with regard to part I, paragraphs B and E of the resolution of 13 August 1948, the Government of India requests that this action be taken. The Government of India requests that note be taken of the fact that that according to its constitutional procedures, according to its public opinion and according to constitutional and international law, the attack on any part of any country is an attack on the whole.

With regard to the remainder, I have gone into details very many times about the withdrawal of Pakistani troops. Part II, section A, paragraph I of the 13 August 1948 resolution state :

> "As the presence of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the sitution since it was represented by the Government of Pakistan before the Security Council, the Goverement

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of Pakistan agrees to withdraw its troops from that State". [S./1100, para. 75.]

I submit that that is not a conditional offer. It is an offer *per se* because it is more or less a penance for concealing facts from the Security Council. The Pakistanis have come here and said : "We are not invading ; our troops are not there. "When they were found out, the Commission dealt with them politely and merely said that it was a material change.

The Foreign Minister of Pakistan has quoted Sir Owen [770th meeting, paras. 48 to 52], whose opinions have not been favourable to us, but he is a high judical luminary, and to suggest that he made an observation in order to get India's agreement—that is the phrase that was used—is, I say, a very serious statement to make about the Chief Justice of Australia. But I have quoted the whole of the paragraph—so has the representative of Pakistan. What does it say ? In effect it says the following : "I cannot go into this question of aggression. I am not going into it, but, irrespective of that, I say there has been violation of international law when they crossed this territory."

That is not to say that this is conditional upon something else. What he was saying was this : whether there were previous factors, as Sir Mohammed Zafrullah Khan urged in the Council, or whether there were other matters to be considered, first of all, he was not entitled to go into them but, without all that, he would say : "there has been violation of territority" ; there was a broach of international law, which is aggression. And I submit that to suggest that Sir Owen Dixon said this only in order to persuade my Prime Minister to agree to someting is, in my view, a reflexion on character which, we regret, has been made about the Chief Justice of Australia.

Therefore, part II, section A, paragraph I has to be observed, and that observance, I smbmit to the Security Council, does not require any action from anybody else ; and what is more, it an action that is called for precedent to anything. Therefore, paragraphs B and E of part I and section A of part

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II are conditions, are actions that have to be taken by the Government of Pakistan out of consideration for the agreements which it has entered into ; furthermore, and above all, in pursuance of the resolution of 17 January 1948 and, even further, in pursuance of respect for international law and behaviour, because, assuming for argument's sake that there are flaws in our title, how did Pakistan come into Kashmir? It came in only by invasion.

What has the Security Council done about asking Pakistan how it incorporated this territory ? What has the Security Council done about asking these people whether the populations in Gilgit or in the western areas, in so-called "Azad" Kashmir, or in Baltistan, have a vote ? Can they express themselves ? Why do they not have these things ? Is there any economic development ? No, they have been prevented by occupation ; and the efforts of the Kashmir Government and our Government have been to try to bring political liberty and economic emancipation to the area.

So the next point which I wish to make is that part II, section A, paragraph 1 of the resolution has to be carried out. The same applies to paragraph 2 as well. Then comes paragraph 3, on which the Foreign Minister of Pakistan entered a *caveat* when he spoke last and which I have explained today. There is no doubt whatever from the wording of this paragraph and the supporting documents in this matter that the administration of this area must be by local authorities ; that is to say, there should be no Pakistani interference. It is not Pakistan's sovereign territory, and is the duty of the Government of India, under subsequent paragraphs, to go to the assistance of the people there if there should be danger of invasion.

I make a further request to the Security Council. Faced as we are with this present situation, in which there is a compaign of hatred, the Government of India believes—and I hope that the Security Council believes—that, apart from all agreements, it is a basic condition that no pacific procedures are possible except in a pracific atmosphere, and, therefore, observance of part I, paragraph E becemes fundamental to any pro-

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cedure. How can there be a plebiscite or anything else without pacific procedures ? How can there be pacific procedures under threats of war and of "Jehad" (holy war), and the invasion of our country, and name-calling all the time ? Unless there is an alteration in the situation, it is quite impossible to achieve any settlement or any approach towards a pacific settlement. In any dispute that is important, and, therefore, it is more important with us.

We are quite or prepared at all times to seek methods of conciliation. The Government of India, therefore, desires me to state that, having regard to the security of India, its north-western borders today are threatened by an army which is out of proportion to what it was before—and I repudiate the assertion by the Foreign Minister of Pakistan that his country's Army is one-third the size of India's Army, and I am prepared to substantiate it in place. I repudiate the suggestion that its equipment is anything like that and, what is more, we desire to point out that the imbalance that has been created has resulted in insecurity for us and, therefore, the Security Council has the responsibility for implementing the basis on which all these considerations have taken place. The Government of India alone is reponsible for the security of this territory. Therefore, when the time comes—if it should ever come—we should be fee to protect our frontiers. That would not be aggression. But, at the same time, I repeat the solemn undertaking that I gave in the Security Council : the Government of India will not move one soldier nor fire a bullet across the cease-fire line in order to assert its legal, constitutional, moral and political rights. It is still prepared to pursue the path of conciliation, the path of negotiation, the efforts of the Security Council or the influence of time : but that does not mean that we shall surrender any of our rights, because if this happened to us, our country would be Balkanized and, strange as it may seem, we have a patriotic fervor about its unity.

Therefore, I request that the Security Council would not think that we have not made any specific request in this matter. We believe that the pacific settlement of this difficulty the resolving of this problem—as it was rightly called by the representa-

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tive of Colombia in his amendment [S/3791/Rev. 1]—is possible in terms of a different outlook cannot be one where the aggressor and the aggressed are treated on equal terms. It is, in our submission, an error to take the view, whoever takes it, that the aggression question has been disposed of. That would be a very dangerous precedent for the Security Council to establish, that, because of the passage of time, somebody can reap the fruits of invasion. The position of my Government—whether it be here, or in the Middle East, or in Central Europe, or anywhere else—is that no invading power, no invasion, can be permitted to reap rewards for invasion. That is our position in regard to Kashmir.

A great deal has been said about the moral position involved in this, and I submit—and I want to submit this with no reservations whatsoever—that the position which we have taken in regard to Kashmir will stand any test of morality. I would like to look at any Government and ask whether, at a time when its army was marching victoriously, it would stop it in oder to avoid further bloodshed. I do not say that no other Government would have done so; all I am saying is that our Government has done as well as any other.

In regard to Kashmir, we have come here to pursue pacific methods, we are now pledging ourselves not use force in order to assert our political, constitutional and moral rights, and we poini out that within the territory which we are now administering, we have brought the benefits of human rights and civilized existence and, in spite of the fact that Pakistan has territory, we have taken half a million people who have fled from "Azad" Kashmir—Moslems—since Pakistan occupied it, becanse of a region of terror there. I use these words because they have been used against us. And I ask, do you think that it is possible to have an Iron Curtain in a country where in the holiday season 60,000 visitors, including 5,000 Americans, come in ? Can you keep any place private where American visitors go in ? Therefore, I submit that we have listened to all this patiently. I submit that it is very wrong—and I particularly look to my friend who is smiling at me—to make use of this forum as a forum for maligning a Government which is trying to follow civilized

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standards. Our people have the right to vote, to express themselves. That cannot said of the other side.

Therefore, these are the requests that we make to the Security Council. It cannot be said that the position taken by India was one where it was evading its commitments. In order that there may be no doubt about it, may I say that the Government of India will at no time resile from any international engagement into which it has entered. But it is not sufficient for the daily Press to say what that international engagement is—it is not sufficient even for Member Governments—without getting all the facts of the question. There appears to be a difference of opinion on this. Fortunately for us a Colombian was Chairman of the Commission. So the representative of Colombia has taken some interest in the matter. I ask the members of the Council to read these documents. Let the Security Council say that the assurances that have been given, after very grave discussion, with the Prime Minister, by the Chairman of the Commission, on behalf of the United Nations, have no value. If pacts are not to be observed, why should one pact alone be observed ?

There is one further point I desire to make, and since there is some possibility, Mr. President, of your going out to what is unfortunately called the sub-continent, I would like to state the following : what is the present position ? The present position is that two or three clauses of the cease-fire agreement are observed. That is to say, not desiring to try conclusions or to assert our rights by force, and Pakistan also being apparently satisfied with the territory that it has illegally absorbed, for the time being, there is no fighting at the present time. But what is the exact position ? I would like the representative of the Philippines to think about this because there are some doubts about it. What the Security Council is doing by the draft resolution [S/3787] is trying to hold the ring for aggression, that is to say, it is because of the security that is provided by the cease-fire line that all this has taken place on the other side. The Security Council's resolution, our respect for the Observer Group, and our desire not to use force in order to assert our rights, are being used as holding the ring for the invader. It is

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behind this wall, it is behind this cease-fire line that the annexation has taken place. How do I explain to my people why the members of the Security Council, sitting around this table, had not a word to say about the illegal annexation of some 42,200 square miles of our territory ?

As I said before, whatever may be the defects in our title, how do these people come in ? They have no right to be there at all. And the Commission said so a hundred times over. The Foreign Minister of Pakistan says that the Plebiscite Administrator was not at the beck and call of the Jammu and Kashmir Government he was not to take orders. But may I say something in this connexion as a parallel. We have an Election Commissioner in India. He is paid out of the Indian revenues, but he does not take orders from the Indian Government. He is appointed by the Indian Government, but he does not take orders from the Indian Government. We have High Court Judges in India who are appointed by the President. They are paid out of Indian revenues, but they do not take orders from the Government of India. But the reason why it has been put down that the only constitutional authority that could appoint the Plebiscite Administrator is the Jammu and Kashmir Government, is the assertion by the Security Council, things being as they are of the sovereignty of the Jammu and Kashmir Government in this matter.

That takes us to the draft resolution. There has been a great deal of our attitude, fortunately not in our area. Here I wish to take the opportunity of expressing our appreciation to the Press in Burma, Ceylon and Indonesia— I have not had the opportunity to read the Manila Press—and increasingly. If I may say so, in Australasia. It takes a long time—there is a lot of water between us—for the appreciation of the position we have taken. We believe today, in spite of any attitudes that may be taken for the time being, that we are subscribing fully to the principles of the United Nations Charter. We are resisting the attempt to capitalize from an invasion. We are begging of the Council not to allow the police force which it has put in there—which is what the Observer Group is; it does not matter what its size is, it is respected—to be there as the ring for aggression,

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behind which there can be a build-up from the ill-gotten gains of a country that has violated international law, that has concealed facts from the Security Council, that has thrown to the winds all canons of decent behaviour.

There is one small matter to which I desire to refer before concluding. There has been an attempt in this unfortunate statement, this very ill-conceived statement, contained in the verbattim record of the 770th meeting, to put every delegation around this table at loggerheads with us. In this connexion, reference has been made to the some discourteous observation that I made in connexion with the representative of Iraq [770th meeting, paras. 99 and 100]. Of course, certain newspapers in some countries will naturally be only glad to say so. But I must say, in defence of my colleague, that he did keep on saying that he did not understand the language which he was using very well. I do not believe that myself. I did not say that; he said that. Incidentally, may I say that I have spoken to the representative of Iraq and it is up to him to say what he thinks. But so far as I can understand, he does not take the same view, and I have no desire to enter into a controversy about it. But since it is written down in the document and will be broadcast in the Arab Press, I want to makc this position perfectly clear. What did I say ? I will read the whole paragraph, because it refers to Sweden also. I said the following :

> "Now we come to the draft resolution before the Council. There were two suggestions made by the President in his capacity as representative of Sweden. I have not referred to the observations made by the representative of Iraq except to say"—and these are the important words—"that the presentation he has made does not represent the facts of the situation." [769th meeting. para. 119).

So far as I know, there is nothing unparliamentary in it. It simply say that I do not agree with him. They are not the facts and they do not tally with the facts. But that is not the sentence that the representative of Pakistan quarrels with. The sentence reads :

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"It ignore the circumstances but, at the same time, I pay tribute and express my appreciation of his desire to be kindly on the side on which he is not neutral and that is all I can say." (*Ibid.*)

I am the side on which he is not neutral, so far as I am concerned. I am entitled to say that. I am entitled to say what is the orientation of his view. He does not quarrel with that. I pay my tribute and express my appreciation of his courtesy, and then I went on to say :

"One must stick to the truth even when one wants to be polite." (Ibid.).

That "one" refers to me, to Krishna Menon, and not to him. I have to be truthful even if I want to be polite. I am polite in saying that I pay tribute and express appreciation, but at the same time I must say that this does not represent the facts. Now this is plain ordinary English as I was taught, and I purpose to go to the representative of the United Kingdom afterwards and find out if I am wrong about this.

If I may say so, if there was any trouble in this matter, this is really a matter between the delegation of Iraq and ourselves, and it is not part of the atmosphere of the Charter to try and make trouble between various members especially in the present conditions in the Middle East and in regard to political alignments in which Iraq is involved and with which we are in disagreement. I have spoken to the representative of Iraq and I would like his countrymen to know that it is far from my mind to be discourteous, and I would be severely reprimanded by my Government if ever I was discourteous to him. Not that would happen. There was no such thing intended, no such meaning is conveyed by these words, and I am prepared to think that the Foreign Minister of Pakistan may have, in his general disposition to find fault with what I have said, been led into error. I do not want to attribute motives to him.

Therefore, in so far as the matter has been stated I would, through you. Mr. President, ask the representative of Iraq to

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accept this explanation—not the explanation saying that it was erroneously meant in the beginning, but the explanation of the facts so that his people may know about them.

That brings me to the end of my observations in this regard. With respect to the draft resolution itself. I have spoken at length. Our position remains unchanged. The Government of India cannot be a party to the introduction of foreign troops on the sovereign territory of India and the whole of our case rests, has rested and will rest upon the view that Kashmir is a constituent State of the Indian Union. Any soldier who sets foot on Kashmir soil, whether it be in the illegal occupation by Pakistan or under the administration of the Jammu and Kashmir Government as part of the Union, will in our view be violating the sovereignty of the territory unless it is with the permission of the Government of the Union of India, because defence and foreign affairs are the concern of the Government of India.

Secondly, I should like the Security Council, apart from these considerations, to take very seriously into account what it is really proposing. Here is a territory where, until now—although there are a lot of people who do not like us—there have been no communal disturbances. There are perhaps individuals making trouble, but apart from that there have never been any Hindu-Moslem difficulties in Kashmir. Progress is taking place but very large sections of people are against any unsettlement of affairs or interference with them, and it is necessary in the present couditions for the Government to put an enormous amount of effort into reconstruction. Does anyone believe that if the forces of the Kashmir police and militia, and the supporting forces of the Indian Army—who did not go to Kashmir against the Kashmir people, but went there against the invaders who committed plunder and rapine mostly against the Moslems and the Christians but on others too, of course—does anyone believe that when those forces are withdrawn it will be possible for such a modicum of troops as may be produced by the Secretary-General to maintain order in the territory ? Would they ever be able to have anything other than the character of an army of occupation ? Would not this mean that those troops

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would take over the Government of the country under a military administration ? What would happen in the Pakistan areas of Kashmir. I am stating my position, which the Pakistan Government denies. We see that the Pakistan side of Kashmir is seething with discount. The effects of opposition are coming out and the territory is split from top to bottom on this issue. There is a considerable demand for union with the rest of India, because on the other side can be seen, if nothing else, prosperity, opportunity and, what is more, the right to elect one's own rulers.

It is not a small thing that in a feudal state of that type in five years time they have not only displaced the old Maharaja and done away with the dynasty but have elected the other man who has to seek suffrage every five years. Therefore, any conception that the authors of the resolution may have in their minds that they are undertaking some simple operation, something which is practicable, is mistaken and it is my duty as the representative of Member State of the United Nations to remind them that their conception is one which is totally impracticable and is calculated to create trouble in the country, to throw it into civil strife end bring back the memories of foreign occupation.

To take foreign troops into any country that has formerly been colonial is to rub wounds which are only just beginning to heal, and there can be no question at any time that this can happen The Government of India cannot depart from any of the basic positions that I have stated. Equally, it will not depart from its determination to follow the paths of conciliation and that is why we have said that if our distinguished President, under the authority of the Security Council or in his private capacity, were to come to India, our hospitality would be open to him. That hospitality, however, does not extend to the terms you are seeking to impose upon us. They are two different things.

Therefore, with certain alterations—if the Security Council found itself a way to follow the line taken by the representative of Colombia, it might be that some other way would be opened. If the Council is still relying on the resolutions of 13 August

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1948 and 5 January 1949, making the reservation that we have no intention of violating the cease-fire line, if it is still relying on those, then start with part I. Let Sir Pierson Dixon address his mind to part I on the subject of demilitarization. We have no objection to the word demilitarization if it means that to start with. The other day I read out to you a passage from Oppenheim which pointed out that any treaty which a country might enter into was bound by considerations of security, and it is our duty in the present condition not to refrain from informing the Security Council of the threats, of the ultimatums, of the mobilization of troops, this propaganda of hatred and of the enormous quantity of military material which is being flown into the area.

I wish to make one final point before I conclude, and this largely relates to the moral position which people have spoken about. We do not seek to take up a moral position in the world, but newspapers speak about it. We are only one country among eighty ; we have no special position of any kind and we must ourselves be able to judge the situation. Reference has been made to arbitration—such reference has been made several times, not only by the representative of Pakistan but also by others and it has been stated, with some degree of distress of mind, that at one time we refused to go to arbitration. Again, arbitration is a word, like plebiscite, which can be bandied about. I have never heard of a plebiscite being taken in one of the constitutent units of a union. I should like to draw your attention to the fact, which I have set out before, that arbitration tribunal in this particular case was asked to set down the questions that it was going to arbitrate upon—and that is unusual procedure. But over and above that, certain other things happened. First of all, in making thase proposals for arbitration the Commission was acting *ultra vires*. It had no authority to do that : its business was conciliation and there was violent disagreement in the Commission itself on the suggestion, which was only adopted by a small majority.

There is another matter to which I have not drawn attention largely out of courtesy to the United States and to the United Kingdom, but if you will push us, then we have to

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speak. This arbitration was a secret offer of the Commission, but before it was presented to the Government of India and the Government of Pakistan it was placed at the disposal of the United States and the United Kingdom, and President Truman and Prime Minister Attlee, in a synchronized action, publicly intervened. I know both those gentlemen personally, and have had many dealings with Prime Minister Attlee, but the intervention made by the United Kingdom and the United States was of such a character that no self-respecting government could have accepted it. However, be that as it may, here was a secret offer made by the Commission, which was not under the orders of the United States, the United Kingdom or any other member of the Security Council, but was independent ; why were its terms given to these two Governments and why were they asked to put pressure upon us and why was that pressure put in the terms in which it was put? Why is more, the verbatim text of the secret arbitration memorandum came into the hands of the British High Commissioners in New Delhi and Karachi at the same time as, or even sooner than, it was officially presented to the Government of India. How do we sell this to our people, even if we wanted to ?

We have ceased to be a British dominion—to the advantage of both of us. This arbitration offer was published and was known to the High Commissioners, in Karachi and New Delhi, even before we knew anything about it. And though much pressure was put on the Chairmen at the time to make an investigation into the integrity of these proceedings, nothing was done. That is the position about arbitration.

Now I say that because our main position with regard to arbitration is normally as provided for under the Charter, if we should avail ourselves of it the procedure must conform to international practice. It is not international practice for the arbitrator to decide what are the terms on which he is going to arbitrate. The parties must decide between themselves, or there must be some terms of reference ; otherwise, the whole basis of judicial proceedings disappears. Now this is elementary law. It is ordinary international practice. These were before me when I addressed myself to this matter. I thought it would pass over.

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Indeed, if only the distinguished representative from Pakistan had not referred to it again I would not have brought it back. After all it is his business to do everything he can to present his case. But there were doubts in the minds of other members of the Security Council.

Here is India which is pleading for conciliation, and in many cases in these buildings has used its efforts in a moderate why in that direction, when it comes to itself refuses to accept arbitration. Putting it in that way, and that is how it appears elsewhere, it looks very bad. Therefore, we had to review that facts. First, it was not an arbitration as usually understood. Secondly, there were pressure of this kind. The action was *ultra vires*. What is more it was done in a way in which no Government could sit back and say : "We are not going to accept orders from anybody else". We regarded the intervention made at that time as improper, and we said so. We had no quarrel with it because it was done in the best of motives. Both these gentlemen concerned are very good friends of India. And there the matter rested. Why it why it should be resuscitated at this stage, I do not know.

I apologize to the distinguished representatives of the United States and the United Kingdom for referring to this matter, but they will appreciate that it cannot be one way, even this worm turns sometimes. I say once again that I have spoken on behalf of the Government of India not in defence, but as plaintiff in this action. We are plaintiffs in this action, we invoke the provisions of the Charter. We asked the Pakistan is to come here with us for a joint settlement. They refused; Prime Minister Liaquat Ali Khan refused. On 22 December 1947 we terminated all that. We came here to take advantage of the provisions of the Charter. We asked this Council to ask Pakistan to withdraw from this aggression and to do what was necessary. It is quite true we did ask you to brand Pakistan as aggressor. But is that a fault on our side ? If it is a fault then we plead guilty to it. It is a fault which we would not be ashamed of being guilty again. But we came here to ask you to prevent the development of events which would lead to war between our two countries—for they had been fighting for

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several months—soldiers who had belonged to the same divissions the same companies, were on either side killing each other.

So far as we were concerned, that is why we agreed to the 13 August 1948 resoultion without any trouble. Pakistan dragged on for five months so it could get military advantages. I want to remind you again that we withdrew from those advanced positions. Does anybody around that table believe that in 1947, soon after the British left India, the Indian Army was not in a position to establish a military decision right up to the frontiers of Kashmir ? I do not think anybody believes that.

Therefore we came here under Chapter VI for conciliation. I think it is a poor service to the Charter, it is a poor service to the confidence that the vast majority of the peoples of our country share, and I make bold to believe from what I have seen in the newspapers that the vast population in our part of the world share this view, it is poor service to all of them to leave this matter in such a way that the original factors are foregotten. And then the Security Council fixes its mind upon two words, "plebiscite" and "demilitarization"—two disembodied ghosts, who must seek sustenance in a large number of the representations.

What is more, we ask the Security Council to give us the answer that we can give to our people. What is the value of the assurances given to us by the Commission, on the basis of which alone, and I repeat, on the basis of which alone we accepted these documents ? My Government would never have accepted the documents except in the light of those assurances. What would have been the answer of my distinguished colleague of the Philippines, if at that time we said : "Oh, no, your assurance is not good enough for us". Then we would have been told : "You are unreasonable". Were these private assurances ? No, they are in the form of publications in the same way as are the the official records of the Security Council.

I ask the Security Council to reconsider the submission made by General Romulo the other day [768th meeting, para.

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101] that we were not correct in thinking that there was something casual about the way in which this was treated. That is not so. But we are conscious of the multitude of people involved. If there is one think in our country today, our people, large or small, leaders, big or high or low, they are conscious of the pulse of public opinion. There is this enormos political, civil, social consciousness in our country. We would not by any step we might take, however unpopular we may be at the time, however much we may appear not to be listening to the majority that speaks here, we will not throw our hand in on the side of violence—and this procedure is the promotion of violence. There is a duty laid upon you today : not for injunctions upon us but injunctions upon them to withdraw from the territory, to stop this campaign of hatred, to rescind the provisions of their Constitution, to restore the local authorities, to place them under the United Nations Commission in order to enalable the Government of India to protect the frontiers of India and the trade routes as are necessary. These are the obligations that rest on the Security Council. This is my submission.

164. *Text of the speech made by Mr. Barco (USA) in the Security Council meeting No. 772 held on 20 February 1957.*

The Security Council began its renewed consideration of the Kashmir problem on 16 January. Since then, we have met eleven times and we have had a very thorough airing of this complicated problem.

The United States has listened with great attention to the statements of the representatives of India and Pakistan. The Council, as a whole, has shown an enlightened and constructive attitude towards the solution of the problem in the proper spirit of conciliation.

The Soviet Union, however, apparently does not look at this problem in the same way as the other members of the Council. While it has been our hope that the United Nations, through the draft resolution tabled by Australia, Cuba, the

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United Kingdom and the United States [S/3787], could assist the parties in taking a forward step, the position of the Soviet representative has been essentially negative.

Let me examine the amendments the representative of the USSR has but forward [S/3789]. First, under the Soviet amendments, all mention of previous resolutions, either of the Security Council or of the United Nations Commission for India and Pakistan, is eliminated. The Council would therefore be asked to ignore the obligations of which both India and Pakistan are committed in the United Nations Commission resolution as well as a large number of Security Council resolutions which are still valid.

Second, under the Soviet Union amendments, all mention of the importance of achieving demilitarization is eliminated. Now, the cease fire is in effect. But it is the failure to reach agreement on the terms of a truce that has prevented furture progress toward a plebiscite. The elimination of emphasis on demilitarization would ignore the fact that this is the key point at which progress has been blocked.

Third, under the Soviet Union amendments, all mention of the proposal for a United Nations force is deleted. We continue to believe with the other members of the Council that this idea deserves consideration and that it should be one of the elements borne in mind by the President of the Security Council in his discussions with the parties, in accordance with the terms of the draft resoultion. While the President would have sufficient scope to take this proposal into consideration on the basis of the statement of the representative of pakistan, we believe a clear reference to it in the draft resolution is desirable.

Fourth, the Soviet Union amendments imply that while the Security Council has heard the statements of the representatives of India and Pakistan, it has not considered them. This is an odd reflection on the work of the Council. The United States and, I believe, other members have considered the statements of the parties, and the draft resolution reflects conclusions based on their consideration.

Fifth, under the Soviet Union amendments, the word

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"dispute" is changed into the word "situation". While the security Council used the word "situation" in its earliest resolutions, it has subsequently used the word "dispute" consistently. This was the word used in the resolution of 24 January 1957 [S/3779] and, in our opinion, reflects the facts.

Finally, under the Soviet Union amendments, the terminal date for the mission of the President is delected. We have no strong views on the exact date, but we do think that we must move forward expeditiously. We would not think that the President should be asked to take on this difficult assignment without a definite terminal date, and we consider 15 April 1957 to be a reasonable date on which to ask him to report.

The draft resolution which has been presenetd by Australia, Cuba, the United Kingdom and the United States is a carefully balanced whole. The Soviet Union amendments would destroy that balance. The explanation of the amendments made by the representative of the Soviet Union on 18 Febuary [770th meeting, paras. 134 ff.] revealed that his objectives were contrary to those of other members of the Council. The representative of the Soviet Union does not want to have a plebiscite held under United Nations auspices, nor does he want even to consider the possibility of United Nations forces helping the parties to achieve demilitarization. This is something apparently alien to the instincts of the Soviet Union. He has told us that the serious problem with which the Security Council is faced is, to use his words, an "artificial hue and cry" [*Ibid.*, para. 136], and he premises his willingness to have the President of the Security Council examine the "situation in Kashmir" [*Ibid.*, para. 143], as he put it, by characterizing that situation as one which has already been settled. In the light of these considerations and his own comments that he wants to interrupt the Council's consideration of the problem for some time, we cannot consider his amendments as a serious attempt to further work of the Council, and we cannot accept them.

With respect to the amendments introduced by the representative of Colombia [S/3791/Rev. 1], I would like to reiterate simply that the we conceive the resolution as an integrated

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whole. We appreciate the constructive approach which, as always, the representative of Colombia has shown here. However, we have doubts about the desirability of the changes embodied in his amendments, and we think that the terminology in the four-Power draft resolution is more likely to lead to constructive results.

The four-Power draft resolution is designed to assist and Pakistan to carry out the obligations they have assumed and which they have reaffirmed before this Council.

The United States and I know the Security Council as a whole want to be helpful in resolving this dispute. The United States values its friendship with India and Pakistan. Reference has been made here to our relationship with Pakistan. The United States is glad to be associated with Pakitan in collective security arrangements and to be assisting it in a co-operative defence effort. We have always attempted to approach the Kashmir problem on its merits, and we do not believe that our collaboration with Pakistan in area defence affects the merits of this case. We seek to assist both India and Pakistan—and I say this with great sincerty—in finding a just and equitable solution of the Kashmir problem. We continue to hope that a settlement can be achieved in a manner satisfactory to both. We again urge them to co-operate to that end. We believe that the four-Power draft resolution will assist them, and we urge its adoption.

165. *Text of the speech made by Mr. Walker (Australia) in the Security Council meeting No. 722 held on 20 February 1957.*

The Australian delegation is happy to see that the representative of India is well enough to take his place at the Council table this morning and to make further statement on behalf of the Government of India that we were promised.

We have listened with great interst to this statement, and I must say that I personally feel more convinced than ever of the desirability of the Council arranging for its President to visit the area and to report back to the Council as provided in

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the four-Power draft resolution [S/3787] that is before it.

I feel it desirable to comment briefly on the two sete of amendments submitted to the Council by the representatives of the Soviet Union and Colombia.

As to the Soviet Union amendments [S/3789] I am afraid I see nothing in their favour. Is the representative of the Soviet Union really interested in a sound and rational discussion of this problem of Kashmir ? His own statments seem to contradict his amendments. At the 770th meeting, Mr. Sobolev had this to say :

> "...the Kashmir question has in actual fact already been settled in essence by the people of Kashmir themselves, who consider their territory in an integral part of the Repulic of India". [770th meeting, para. 135.]

If this question of Kashmir has been settled why does the representative of the Soviet Union support a proposal that the President of the Council should go to the sub-continent to investigate the question ? Surely there would be no point in requesting you to make this long and arduous journey to India and Pakistan if the matter were already settled. One may well ask : What are the real objectives of the Soviet Union in this connexion ?

If we look further into Mr. Sobolev's statement, we find that he has proclaimed that :

> ". . .the Charter does not provide for the use of United Nations forces to impose by forces a plebiscite in any country" [770th meeting, para. 139.]

Of course not. But I suggest to my colleagues that this is is a gross distrortion of the wording and intention of draft resolution. If Mr. Sobolev had read the preamble carefully, he would have noted the words :

> . . . in so far as it"—the proposal of the representative of Pakistan concerning the use of a temporary United

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Nations force—" might contribute towards the achievement of demilitarization . . . the use of such a force would deserve consideration". [S/3787.]

Nobody has suggested in this Council that troops should be used to force the holding of a plebiscite in Kashmir.

Of course, it does not come as a surprise that the Soviet Union would be opposed to any suggestion of a plebiscite which enable the people of Kashmir to express their own views on their future political allegiance. After all, the Soviet Union has often shown a preference for other methods of determining such questions.

Nor, I suppose, should we be surprised that the Soviet Union is opposed to any proposal for the introduction of a temporary United Nations force into Kashmir. We are all familiar with the position of the Soviet Union on the United Nations Emergency Force at present in the Middle East.

And as for Mr. Sobolev's suggestion that all would be quiet in Kashmir were it not artificial attempts to create trouble there, these words have so familiar a ring that they can carry little conviction to the Council, particulary in view of the statements we have heard from the parties.

In short, the amendments of the Soviet Union representative seem to me to ignore all that has goes before on this qeustion of Kashmir.

With regard to the amendments proposed by the Colombian delegation [S/3791/Rev.], I would only say that while I fully appreciate its motives in putting them forward, I find them difficult to accept since I feel that the draft resolution as it stands would provide a suitable basis for the mission that we wish to entrust to the President of the Council.

Before concluding these remarks, I wish to correct certain references that the representative of India made last Friday [769th meeting] to my own statement in the Council [768th meeting, paras. 48 to 59]. Mr. Menon complained that I had drawn an anlogy between the United Nations Emergency Force

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now in Egypt and the proposal of the representative of Pakistan which is referred to in the draft resolution before us. Moreover, he said that this analogy "comes ill from the representative of Australia, who initially refused to have anything to do with this business of sending a force to Egypt in order to implement the purposes of the Charter" [769th meeting, para. 103.].

I can only say that Mr. Menon's recollection was at fault when he made this remark. There were three votes in the first emergency special session on the subject of the United Nations Emergency Force. On the first of those resolutions Australia abstained because the preamble recalled earlier resolutions relating to the withdrawal of the United Kingdom and French forces which we had not supported. But we made it clear that we supported in principle the establishment of UNEF and we voted for the next two resolutions dealing with arrangements for the Force. So there is no foundation for Mr. Menon's suggestion that Australia's position on UNEF has been such as to make it in appropriate for me to draw an analogy between that Force and the Force proposed for Kashmir, if I had desired to do so. As a matter of fact, my observations on this question were carefully worded to avoid entering into any discussion of that kind.

What I said about the Pakistan proposal for United Nations force is as follows :

> "The idea", I said, "is perhaps not a new one, but it gains in interest and importance from the recent experience of the United Nations in the establishment and operations of the United Nations Emergency Force in Egypt. Without drawing any parallel between the situation that led to the General Assembly's decision to establish that Force and the problem of securing appropriate measures of demilitarization of Kashmir as a preliminary step towards holding a free and impartial plebiscite, it would seem to us very difficult for anybody to deny that the use of such a force, in so far as it might contribute towards demilitarization, would, in the words of the draft resolution 'deserve consideration'." [768th meeting, para. 53.]

I appreciate that Mr. Menon did not have the text of my

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statement before him when he spoke and that may explain why his own comments somewhat distorted my remarks. I have gone into this partly in order to set the record straight and also, if possible, to reinforce my previous plea to Mr. Menon to recognize our good will in this matter and to accept our draft resolution in the spirit in which it is offered.

I must say that regarding this proposal for the use of a temporary force, the comments of the representative of Pakistan [770th meeting, para. 120 to 128] towards the conclusion of his speech on Monday, indicating his understanding of the functions that a United Nations force might fulfil in this connexion, struck me as being very reasonable. But these are only observations which, along with the other statements made here, would need to be taken into account by our President in his discussion with India and Pakistan.

It is the hope of the Australian delegation that, along with other matters, our President will explore this proposal with the Governments of India and Pakistan and that they will give this, as indeed the other matters studied by the Council on this occasion, their closest consideration.

Sir Pierson DIXON (United Kingdom) : The Council has before it a series of amendments to the joint draft resolution [S/3787] proposed by the representative of the Soviet Union [S/3789], and it also has before it amendments proposed by the delegation of Colombia [S/3791/Rev. 1].

As regards the latter, I appreciate the sincere desire of the representative of Colombia, shown in his speeches, to be of assistance in suggesting amandments which he has put forward in the hope that they might prove acceptable to both parties. I would only say that these amendments make certain references and omit certain points, with the result that the balance of the original draft is upset. I therefore hope that he will find it possible not to press his amendments.

The Soviet Union amendments have to be read in the light of the Soviet Union representative's statement at the 770th meeting of the Security Council. The amendments by themselves give the appearances of being an attempt to find a compromise.

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However, the speech of the representative of the Soviet Union suggests either that the Soviet Union delegation is ignorant of the facts about Kashmir or that it is making an attempt to create mistrust and exacerbate existing misunderstanding in the sub-continent.

What does he say ? He asserts bluntly that :

"The Soviet Union's view, and its basic premise, is that the Kashmir question has in actual fact already been settled in essence by the people of Kashmir themselves." [770th meeting, para. 135]

What does mean ? And then Mr. Sobolev says :

"We must not forget that the idea of a plebiscite in Kashmir now, meets with the objections of one of the parties; that it has in fact been rejected by the party." [*Ibid.*, para. 138.]

But it is clear from the speeches of the representative of India that he has not at any stage rejected on behalf of the Government of India the idea of a plebiscite. He referred to the conditions which have to be met before it is possible to have a plebiscite. He has talked about the difficulties in the way of a plebiscite, but he has not suggested that he rejects the idea of a plebiscite. If, however, it is the Soviet Union view that the question of Kashmir has already been settled by the people of Kashmir itself and that the idea of a plebiscite at the present time has been rejected by one of the parties, what then is the purpose of the representative of the Soviet Union in suggesting that the interested parties could use this time, that is to say, the present time, for making new efforts to settle existing differences by means of direct negotiations ? Negotiations about what ? If, to accept Mr. Sobolev's contention, the question of Kashmir has already been settled and one party rejects the idea of a plebiscite, how—on what basis—could such discussions take place ? With what sincerity does he propose that the President of the Security Council should go out into the field to consider, together with the Governments of India and Pakistan, the exist-

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ing situation in Kashmir as well as possible methods of setting existing differences ? Yet, despite the strange illogicality in the speech of the representative of the Soviet Union, he did at least agree to that. It is possible to attribute the words of his speech to innocence or ignorance rather than to anything else. I hope, therefore, that he will not make himself responsible for preventing such a visit by our President from taking place.

I said that the Soviet Union amendments give the appearance of being an attempt to find a compromise; but in my view the effect of those amendments is to emasculate the draft resolution in such an extent that the resulting proposal would not be likely to make a contribution to the settlement of the Kashmir problem. I think I can best explain my reasons—and I shall do it as shortly as I can—by pointing out the significance of the points in the four-Power draft resolution which the Soviet proposal seeks to eliminate or amend.

The proposal of the Soviet Union would omit the whole of the preamble except for one paragraph which would be amended, paragraph to which I shall come later.

Now what does our draft resolution say ? In the first preambular paragraph it recalls the Security Council resolution of 24 January 1957 [S/3779], its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan. In doing this, it is true that it thereby recalls certain parts of the previous resolutions which have only a historical interest. But by recalling all the resolutions, the present draft is designed to avoid arguments about the different weight to be given to previous resolutions. This, I should have thought, would be reassuring to both parties.

It is true that the four-Power draft resolution makes a specific reference to the resolution of 24 January. But, after all, that resolution is a preliminary resolution which says that the Security Council "decides to continue its consideration of the dispute"; it is a resolution passed at the present series of meetings, and it would be anomalous to omit a reference to it.

I was asked to say why the resolution of 24 January 1957 had greater significance than that of 17 January 1948. My

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answer is that it has no greater significance. In fact, I drew attention to the resolution of 17 January 1948 in my intervention at the 768th meeting, by reading out the relevant part of it [768th meeting, para. 17].

Then an amendment is proposed to the clause "Having taken into consideration the statements of the representatives of the Governments of India and Pakistan". I find it difficult to understand why. My Government is deeply concerned to find a psaceful solution of the Kashmir problem, and I can assure the representative of the Soviet Union that the statements made here have received the closest consideration not only my delegation, but by my Government too.

Another effect of the Soviet Union amendment is to eliminate the word "dispute" in the draft resolution. I am puzzled that there should be any objection to this word. Not only has it been used in many Security Council resolutions, but it was used in the joint *communique* issued to the Press in New Delhi on 20 August 1953.

The Soviet Union proposal would eliminate from the draft resolution the clauses referring to "demilitarization". I am glad of this opportunity to clarify the meaning we attach to this important word. Demilitarization in this context means simply the process or procedures for withdrawing troops as laid down in the resolutions of tue United Nations Commission for India and Pakistan. I repeat, as laid down in these resolutions. Demilitarization in our view is an essential process, to which Pakistan and India both agreed, as the way to the settlement of the problem. It is, moreover, an essential step on which both parties have laid the greatest stress.

Next, the Soviet Union proposal would remove the last preambular paragraph. Certain words in it were criticized, but this paragraph must be read as a whole. This paragraph is an expression of belief, and the sole belief expressed is that the use of a temporary United Nations force would deserve consideration in so far as it might contribute towards the achievement of demilitarization envisaged in the resolutions—not just demilitarization, but demilitarization as envisaged in the resolutions—

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and towards the peaceful settlement of the dispute. The belief is that expressed in the conditional tense. The belief is that the use of such a force would deserve consideration in so far as "It might contribute".

Now, I am aware of the strong feelings about the idea of a United Nations force. Nothing that has been said on this subject, however, appears very relevant to the paragraph in the draft resolution as it is actually drafted, or to provide a reason for the rejection of the draft resolution. It is surely in accord with the letter and the spirit of the Charter that the Security Council should tell the parties that it believes that this idea might conditionally, deserve consideration. Is not idea worth examining calmly with the President of the Security Council as a possible way of achieving progress ?

I assert again that this draft resolution, in our view, in present circumstances, is in the true interest of both parties.

I would here repeat—and I trust my words will go out beyond the confines of this Council—that we approach this question in the simple spirit of wishing to see a just and fair solution. We stand ready, as we have throughout the last nine years, to consider our attitude to Kashmir on the merits, and on the merits alone, of the cases put forward by the parties, and in examining the cases put forward we are deeply conscious of the vital necessity of making a positive contribution towards peaceful progress in the subcontinent. My Government's attitude is based on no other considerations whatsoever.

In conclusion, I repeat that the draft resolution before us prejudices no position. In the view of my Government it is a balanced draft. In our eyes it has virtue in that it bridges the Indian election period, without halting all the attempts to find a solution during that period.

The time must come soon when the Security Council must face its arduous task again. I trust and hope that it will be in a position to do so with further information about the attitudes of the two Governments before it, which will enable it to consider carefully and wisely its next step.

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I therefore appeal once more to both Governments to consider the draft resolution before us, not for what is imputed to it, not for what has been read into it, but for what it is.

166. *Text of the speech made by Mr. Krishna Menon (India) in the Security Council meeting No. 773 held on 20 February 1957.*

I am grateful to you, Mr. President, for the opportunity which you have given me to intervene again. In the interests of the Government of India. I have to say that if, after the observations which I submit, the representative of Pakistan were to offer observations, I would be entitled to reserve my position to reply to them since this Council has now been convened at the request of Pakistan. I recognize that we cannot go on interminably answering but we are in the position where the session has been convened at the request of Pakistan and the draft resolution before the Council is in its support. Therefore, the right of reply rests with us so far as it goes.

There have been a number of statements made, and the position of my Government here, as I have said several times before, is that the Council has kindly invited us under Article 32 of the Charter. Therefore, the Government of India does not propose to take a position on the draft resolution, of support or opposition because it is not required to do so; but it is entitled to offer its observations as to what it would do, what it thinks about the draft resolution, what the consequences would be. In doing that, I have no desire to make another intervention of any length. but merely to deal with what has been said since I intervened this morning [772nd meeting]. In doing so, if I may be permitted, I should like to proceed in reverse order, dealing with the last two military allies of Pakistan, the Philippines and Iraq, who have spoken. and come to the main proposals afterwards.

The representative of Iraq, who made a very courteous and gracious reference to me, for which I am grateful, has brought this matter to the forefront. He used the words "a single and continuous process" (para. 4, above).

This arises from the position of Mr. Graham—and again I say that we regret not having heard him at this meeting, so

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far as my Government is concerned—and it enables me to say two things. First of all, the interpretation of a single and continuous process that the representative of Iraq places upon the resolutions is as erroneous as almost every interpretation he has placed on all Security Council decisions; that is to say, it takes the Pakistan view of it, which has not been either accepted by the Commission in the past or is supported by the basic decisions. What is more important—and we want to put this into the record—the Government of India is no longer committed by any intermediate discussions that have taken place, by any hypothetical propositions that have been put to them, or by any mathematical calculations made by Mr. Graham at various times. All these things were part of procedures to find a settlement.

If the bargain had been closed, we would be bound by it. We have been bitten so many times (especially when we just heard the representative of the Philippines on whose statement I shall comment in a moment) we have no desire at all for the Security Council to misunderstand our position. It is wrong to say that some advance has been made in regard to demilitarization. The only advance that has been made in regard to demilitarization—and it would be useful for Council to know it—is the voluntary withdrawal of the Government of India of large numbers of troops from Kashmir since cessation of hostilities—for which the Council has not been gracious enough to say one word of appreciation—without any conditions whatsoever.

With regard to these references to a single and continuous process, simultaneous withdrawals, synchronized arrangements, all these things and all these words have been differently interpreted by the United Nations Commission for India and Pakistan, by the United Nations representatives afterwards; and whatever discussions may have taken place, either in New York, Geneva, New Delhi, Karachi, Paris or any where, they are all today only part of historical material, they do not commit the Government of India to anything, because there was no closing of any bargains, and it should not be said afterwards that where it is advantageous to one side that is

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taken as a commitment, and where it is not advantageous, it is pointed out against us.

Therefore, the only engagements from which we can proceed, in so far as we can do so, are the engagements to which we are parties in the context of all the circumstances submitted. Therefore, I would like this particular factor to be written into the record so that in the event of the matter coming up again, or having anyone else intervening, whether it is your distinguished self, Mr. President, it should not be thought that now we have gone back on something else, because unless this attitude is taken, it is impossible to discuss anything, any pro tem proposition, any exploration; any thinking aloud becomes dangerous because at that moment we will be pinned down to it. What is more, the whole surrounding circumstances have to be taken into account.

I prefer to make no further references to the intervention by the representative of Iraq because it will take too long, except to say that the whole analysis is contrary to the facts of the case, contrary to the commitments made by the Commission, contrary to the principles of the Charter, and contrary to the assurances given to us. It is a statement of good advocacy on one side, for which we have respect but for which we cannot be grateful.

With regard to the Philippines position, we repudiate, and emphatically repudiate, and will continue to repudiate the position that the United Nations has not at all times been committed to the position of the sovereignty of the Jammu and Kashmir Government, of the competence of the Government of India, of the Union of India, for its external defence and its foreign policy, and for the position that whatever may happen in the final settlement, until that final settlement is reached, it is part of India. That is why the Plebiscite Administrator had to be appointed by the Jammu and Kashmir Government. That is why, as I said this morning, we became responsible for law and order. We could go into all arers of the State, and various other things were provided. That is an essential basis. It was not a contingent proposition. The representative of the Philippines—who, in spite of all the differences, is a good personal

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friend—is entirely in error in the reading of the facts in this matter, and we would find no impartial legal or juridical support for his position. If that position is taken, there is no basis for talking at all.

Besides, I want to submit to the Council, another proposition. As a former Governor-General of India said : "What is Kashmir, no-man's-land ?" My colleague says, in his very laboured attempt to establish equality of the two sides, that neither Pakistan nor India has sovereignty in this place (para. 46 above). If it is no man's-land, that would be a very peculiar position. On the other hand, if neither of us had sovereignty, it will go back to the Maharaja of Jammu and Kashmir whose son is the President of the Kashmir State at the present moment. There may be some advantage in that, but we are not prepared to take advantage of it.

As regards the idea that the United Nations has some unexplored territory over which it is going to establish its dominion, may I say that the United Nations is not a sovereign body to do all these things. It is merely a conglomeration of Governments, to make recommendations to them, especially under the provistons of the Charter with which we are dealing now, namely Chapter VI, to seek conciliation. I submit that the observations made by the representative of the Philippines are contrary to the basic arrangements, to the basic positions which are enshrined in the relevant resolutions, in the assurances and in all the proceedings that have gone on.

The representative of the Philippines makes a fundamental error, which he could easily rectify if he read the resolutions of the Commission. He says that the resolution places both parties on the same basis. That is exactly what it does not do. It places us on the same basis if by that is meant that both of us are involved there. It certainly does not place the parties on the same basis. In fact, it is just the contrary. It is exactly what it does not do. That is the meaning of all that has been argued, before the Council of all the assurances given by Mr. Lozano as Chairman of the Commission, and of the words that are written into it, and any documents must be interpreted in their natural meaning.

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Therefore, the submissions that are made are entirely contrary to facts and to the law that obtains in this case. There has been no achievement of demilitarization except as I said : the voluntary withdrawal of a considerable part of the Indian Army that was there at the time of the fighting. That was not done under the orders of the United Nations, but because we thought that was the best thing to do. That is the demilitarizarion that we have carried out. It is also part of the general cutting down of our forces.

There is an attempt in the statement made by the representative of the Philippines to establish equality of status. This is what Pakistan has been trying to do for a very long time, but it has not found such obvious advocates in this Council until now. Now therefore, we, as the Government of India, completely disassociate ourselves from and emphatically repudiate these statements in so far as they are contrary to the Charter, contrary to the resolutions, contrary to the assurances, and contrary to good conscience.

That takes us to the two main statements. I will leave aside the statements of the representative of the Soviet Union and the representative of Colombia because they are not advocates of the resolution, which is what you are considering. But wherever the United Nations forces appear in this context, my Government has already expressed its position. Therefore, perhaps, before I deal with the statements of the representatives of the United Kingdom and the United States, it would be advantageous to me to make this position clear.

The Secretary-General is not a jurist; he is not a lawgiver or anything of that kind; but when the Secretary-General submits a report and it is accepted by the United Nations, then it has a different value. And here I refer to document A/3512 dated 24 January 1957 with regard to the use of the United Nations Emergency Force. And this is what the Secretary-General said :

> "(*b*) The use of military force"—there has been no suggestion that it is going to be boy scouts or the Red Cross or the Ladies of the Order of the Golden Cross or

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anything of that character—"by the United Nations other than under Chapter VII of the Charter requires the consent of the States in which the force is to operate. Moreover, such use must be undertaken and developed in a manner consistent with the principles mentioned under (*a*) above"—that is, that there should be no change in the *status juris*.

Sub-paragraph (a), which I do not want to labour in the Council, definitely refers to the fact that there should be no change resulting from military action. It says : "The United Nations cannot condone a change of the *status juris* resulting from military action contrary to the provisions of the Charter."

But this is exactly what is being done. Pakistan invaded by military action—it was not welcomed as a liberator—it invaded the territory and by annexation changed the position; and if the points raised by the representative of the Philippines were to be followed, then this would be an attempt to change the *status juris* as a result of military invasion. Therefore, the Secretary-General's authority, which has gained sanctity because it has been accepted by the General Assembly, is very much a point to be taken into account.

The next passage is even more important from some points of view, where it continues :

"It must, furthermore,"—and I am sorry if the Secretary-General feels embrassed by this—"be impartial, in the sense that it does not serve as a means to force settlement, in the interest of one party, of political conflicts or legal issues recognized as controversial."

If that sentence is correct, there is not a more inapt context in which the United Nations Force can be brought in.

Now of course it can be argued that no one is trying to send a United Nations force over there to force itself upon us.

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The answer is two-fold—and I am sorry that my friend General Romulo who, by his career and by his knowledge of the problems of law and order, and perhaps of disorder, and by his knowledge of these problems, has not taken some note of what I said this morning, when he said that the whole plan as put forward by Pakistan, "deserves consideration"—"deserves", I suppose, is the kind of phrase that usually has some sanctified significance, some holy merit attached to it. When it was put to us, the whole idea was that everybody else should go away – the Indian Army should go away, the Kashmir police and militia should go away, and everyone else should go away, and the Pakistanis also, except that of course forty-five battalions of the "Azad" forces would still be there. And then there would be a very good "banana fight" in the place. That is the position; that is to say, who is going to keep order in this place? When the representative of the Philippines tells us that it is not intended that it should use force, I ask what is it going to do there? Who is going to be responsible for law and order in this area? That is our responsibility.

I have quoted sub-paragraphs (*a*) and (*b*) of paragraph 5 of the report of the Secretary-General, and I will now proceed to (*c*):

> "(*c*) United Nations actions must respectfully the rights of Member Governments recognized in the Charter, and international agreements not contrary to the aims of the Charter, which are concluded in exercise of those rights."

These three sub paragraphs, (*a*), (*b*) and (*c*) are conclusive in reagard to the inaptness and the illegality of this; and what I have submitted in regard to the law and order problem does make the whole thing—I will not use any stronger words totally impractical.

But over and above that, the United States and the United Kingdom, who produced this draft resolution which has now been co-sponsored by others, had both private and public knowledge that the Government of India would in no circumstances agree to this. Therefore, to produce a proposi-

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tion which requires the consent of the parties, in the face of our declaration that we will not agree to it, is either to take the view that what we say does not mean anything or that their persuasive powers would be so great that we would surrender our principles. I think that neither of those conclusions is justified. Therefore, the moment the Head of the Government of India, in a public declaration on its behalf, said that we would not agree to the introduction of this force and, what is more, would view the introduction of this force even into the Pakistan-occupied area—which is our sovereign territory under enemy occupation, if only an enemy for purposes of Kashmir —as constituting a violation. What is more, I said before the Council on behalf of my Government, that any Member State participating in the force, in so far as it acts contrary to the United Nations Charter, would be violating our sovereignty and coming in the way of our bilateral relations.

I refer to the Charter and I ask those who are responsible for the draft resolution to find me one word in Chapter VI, which is concerned with the pacific settlement of disputes, with reference to a United Nations force. There is none. Therefore, it is not possible, it is contrary to the Charter. It is only in regard to this that we want to refer to any amendments such as those of the delegation of Colombia to any part of the draft resolution, although this would be a very much milder proposition than that which has been put forward by the United States and the United Kingdom.

I would like next to refer to the observations made by the representative of the United Kingdom at the 772nd meeting. I would like to say that the statement made in support of the draft resolution is an attempt, in so far as words can do it, to try and make it palatable to us. Every attempt has been made by the very able representative of the United Kingdom to make this proposition something that we would buy, that the Government of India can tell the people is not too bad. But that does not take away from its character. The leader of our country who created our independence, Mahatma Gandhi, told the Viceroy, Lord Irwin, when he produced a certain form for settlement at that time: "It is no use your giving me

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names; I must take it, I must weigh it, I must bite it, I must sound it, I must taste it and see what it is like." So we have masticated this during the lunch hour; and I pay my very humble tribute, but a great one, to Sir Pierson Dixon for the great dexterity of language in which this very difficult and unpalatable pill has been presented to us in the most agreeable fashion. There is no doubt in my mind that it is his desire and the desire of his Government that we should accept this because they probably believe that it will lead to something that they want. So far as the United Kingdom is concerned, there is no antagonism to India, but of course there is a long history whereby the whole of these problems are associated with our two countries.

I would like to refer to a passage of Sir Pierson Dixon's statement. May I say here, without lacking in deference to the Council, that in so far as we have heard them, the debates on the resolution have been largely between the Soviet Union and the rest of the members, so Kashmir does not come in a great deal. But still there is some reference to the draft resolution in this speech. Now this is what Sir Pierson Dixon says :

> "...by recalling all the resolutions, the present draft is designed to avoid arguments about the different weight to be given to previous resolutions. This, I should have thought, would be reassuring to both parties." (772nd meeting, para. 146.)

With the greatest respect, I submit that this is exactly what it is not. There is a difference in the weight of these resolutions. Resolutions which the parties accept and those which they do not accept are in different categories. The resolution of 17 January 1948, and the resolutions of the United Nations Commission for India and Pakistan, the assurances given, these are all resolutions which carry a greater weight—that is because we have accepted them, we are parties to them, whether we like them or not. Therefore, to suggest that there is no difference of weight is exactly contrary to the purposes in mind, namely, to create a receptivity in our minds.

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One of the main objections to the draft resolution that we would have if we were members of the Security Council is, namely, that these resolutions have been recalled to rub salt in the wounds that already exist. They are things we have rejected over and over again. They deny propositions which have been admitted by the Security Council before and they embody violations of the Charter of the United Nations. That is one point I would like to make.

I am happy to welcome the statement in Sir Pierson Dixon's observation which says :

> "I was asked to say why the resolution of 24 January 1957 had greater significance than that of 17 January 1948. My answer is that it has no greater significance." (*Ibid.*, para. 148.)

This is the first time in the whole of this debate that a member of the Security Council has stated in definite terms that the 17 January 1948 resolution is sacrosanct. We welcome this and we hope the Security Council will pursue this matter. If the 17 January resolution is observed you will be in the beginning of a settlement.

I have already dealt with the problems of the United Nations forces so as it is not necessary for me to refer to Sir Pierson Dixon's observation which says :

> "It is surely in accord with the letter and the spirit of the Charter that the Security Council should tell the parties that it believes that this idea might, conditionally, deserve consideration." (*Ibid.*, para. 153.)

My distinguished colleague said that it is deserving of consideration. I submit that it is a recommendation of something contrary to the letter and to the spirit of Charter; and what is more, contrary to the very basis on which a solution can be found, namely, the agreement of the two sides. We have definitely said we will not agree to this. It is a Pakistan proposal which has been taken up by others.

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We welcome the statement which is modification of previous positions held by the United Kingdom. The representative of the United Kingdom said :

> "Demilitarization in this context means simply the process or procedures for withdrawing troops as laid down in the resolutions of the United Nations Commission for India and Pakistan." (*Ibid.*, para. 151.)

I want to ask my distinguished colleague, either publicly or privately, if it means that, then why not start with the first part of the resolution of 13 August 1948 ? That is where it was intended to start because it is only after the first part is completed that the second part comes into operation. And it is only when the first and second parts are completed that the third part comes into operation. If the demiliterization in this context means the process or procedures for withdrawing troops as laid down in the Commission's resolutions, why not do it ? The mistake in this matter, for which we are to a certain extent responsible, has been in talking at the wrong end and getting into this higher calculus about quantums and forces and things of that character.

Therefore if "demilitarization in this context means simply the process or procedures for withdrawing troops as laid down in the resolutions of the United Nations Commission for India and Pakistan", may I take it that the United Kingdom now subscribes to the immediate operation of parting paragraphs B and E, of the resolution of 13 August 1948. That is not demilitarization, but it is connected with it. I would like to say and I hope it will be conveyed to the Government of the United Kingdom, I have no doubt it will be, that we cannot accept the view expressed in the conclusion that the draft resolution before us prejudices no position, because it is merely a request to us for a matter deserving consideration. I ask in all fairness : look into the history of this case. Whenever we have looked at something, we have been told that we have bought it. Now if this idea is introduced in the document which has all the sanctity of a Security Council resolution, we get invol-

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ved in this matter. Therefore we cannot agree to the position that it prejudices no position, especially in view of the colleagues whom the United Kingdom has been able to obtain in support of the proposition. It has the virtue that it bridges the Indian election, without halting all the attempts to find a solution during that period. We are grateful that it is more or less agreed on all sides that the Government of India would not be able to give consideration to any matters of policy until the elections are over. For that we are very grateful and we express appreciation. The other part, I will come to when I am dealing with the last of these observations, namely, the question of its effect.

That takes us to the statement made by the representative of the United States at the 772nd meeting. We are here in extreme difficulty. We have right through this debate, in view of the sincere attempts we are both making to establish better goodwill in the world as between ourselves and other people, and in spite of the strong differences that exist between their policy and ours in regard to Asia, when the United States became a party to taking under protection all territories south of a particular parallel, we have been very careful not to drag in a great number of matters. Even at this stage we do not propose to lift the whole curtain, because the way of conciliation does not lie in saying everything that can be said; but the duties to one's Government demand that what must be said has to be said.

Now here is part of the statement made by the representative of the United States at the 772nd meeting. I am very sorry my distinguished colleague, Mr. Lodge is not present; that, however, makes no difference because it is a statement of the United States Government. It reads :

> "Now, the cease-fire is in effect. But it is the failure to reach agreement on the terms of a truce that has prevented further progress toward a plebiscite." (772nd meeting, para. 112.)

I would say with great respect that this totally ignores

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everything that the Government of India had to say this morning. I think it is deserving of courtesy between two friendly nations that at least those arguments should have been entertained and if necessary argued and rejected. Our position is that part I has not been observed. Now when the distinguished representative of the United States says, "the cease-fire is in effect", if he means thereby there are no hostitilies, we agree. But that is not what it says. Part I—"Cease-fire order", that is the heading—part I, paragraph B says :

> "The High Commands of the Indian and Pakistani forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir." [S/1100, para. 75].

Now that is what we have been doing for nine years. Therefore our position, as I stated categorically this morning, is : it is a violation of part I, and it is the duty of the Security Council in our humble submission, being parties to this resolution, to take note of it. We have not succeeded so far in getting any expression of opinion from any member of the Security Council which in any way reflects upon the many acts of omission and commission on the part of Pakistan contrary to the Charter, contrary to the agreements and contrary to the resolutions.

Therefore, this is entirely erroneous. We want to enter a *caveat* against it : that we do not accept the position stated by the United States that the cease-fire, as far as it means part I of the agreement, is in effect. It is not in effect. On the contrary, it stands violated and continues to be violated, as it has been for the last nine years.

We are told that the four-Power draft resolution is designed to assist India and Pakistan to carry out the obligations which they have assumed and which they have reaffirmed before the Council. This would be a good occasion for me to dwell on a similar sentiment expressed by my colleague from the

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United Kingdom. This draft resolution not only will not promote the process of bettering relations and of finding solutions but will hinder that process. It will impose enormous burdens upon our Government in regard to our public opinion. It will have the effect of fomenting communal feelings in India. It is a draft resolution, I suggest, that is just not of a healing nature, but one that is calculated to create irritation and suspicion and, what is more, to confirm the feeling in the minds of our people that there is no fair approach to this problem in this Council so far as India is concerned. (These are strong words, but I am asked to say them. I am only repeating what the Head of my Government has said.)

Therefore, the view that is stated here that this draft resolution is designed to assist India and Pakistan to carry out obligations is a wish which we appreciate—we appreciate the sentiment—but, as far as facts are concerned, that is not so; it will have the reverse effect.

I come to the last of the observations by the representative of the United States. Before that, I want to express my regret to my colleague from Australia in regard to what I said about the United Nations force in Egypt. I notice now that there is only one resolution on which this country abstained. But my statement was cast in the mould that it was generally not in favour of the action that was taken at that time. In any case, the argument was that the two cases were not parallel. In one case there was the invasion of Egypt, and the purpose of the United Nations Force was to remove the invaders. In this case, the invasion is by Pakistan, and it is the invader that is inviting a United Nations force. Therefore, you are not on the side of the householder, but on the other side, to whom you can give whatever name you like.

The representative of the United States tell us :

"The United States values its friendship with India and Pakistan."—So far as we are concerned, we have no doubt about that. So far as Pakistan is concerned, it is not for us to say—"Reference has been made here to our

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relationship with Pakistan."—We have, and I am afraid you will hear of it as time goes on—"The United States is glad to be associated with Pakistan in collective security arrangements and to be assisting it in a co-operative defence effort. We have always attempted to approach the Kashmir problem on its merits, and we do not believe that our collaboration with Pakistan in area defence affects the merits of this case." [772nd meeting, para. 120].

I think it is a legitimate question for a comparatively large country like ours, with our neighbours who are not interested in this area defence and, what is more, have expressly pronounced themselves against it, to ask : How can it be a friendly act when the United States intervenes in our area, along with its allies, with one participant in what is called are, defence ? How does this differ from the kind of protectorate that was proclaimed by Britain and France over various territories in the past, in which they took these territories under their protection ? Therefore, we repudiate this idea of area defence. Area defence—in which area ?

If this stood alone, if would not matter. But I would like you to listen to this and read this side by side with the view of the Commander-in-Chief of the Pakistan Army. Then, I think that you, in whatever way you vote—some of you, if not all of you—and certainly the peoples of the world will begin to understand that here in regard to Kashmir, while resolutions are being passed without any reference to realities, there is being fomented a situation which can lead to a great catastrophe.

This is an account of what General Ayub said on 15 December :

"In the event of a major war, Pakistan was not likely to send an expeditionary force."

So all this furniture that was sent over is only for domestic purposes. It is not coming to anybody's defence. It is not

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coming, I say to Sir Pierson Dixon, as the expeditionary force went to the Battle of the Marne in 1914. It is not going, as the Indian Army went, into the desert of Libya. This is a categorical statement. It goes on to say further that it is for the purpose of "the interior lines".

Then, according to the report, General Ayub says :

"Pakistan's potential enemies were a good deal stronger in potential and superior in number and in equipment. Therefore, we have got to have an army which is standing ready to take the field within a week."

Now where will Pakistan go within a week ? It could not be to the Soviet Union. It can only be next door to us. And we have statements of persons, to whom I cannot make reference out of respect to the Secretary-General, who have pointed out that the enemy of Pakistan lies to the South of Pakistan. There you are : "standing ready to take the field within a week".

It does not stop there. I am not going to read the whole of this. General Ayub continues as follows :

"I hope to have an Army which is highly skilled."—and that is the ambition of every general—"It is on that that the future of Pakistan will depend."

That is a very pathetic phrase.

The report goes on say :

"General Ayub said that···the American commitment was to give the Pakistan Army means to create certain units that would balance certain divisions. This programme has now been geared in. It is moving splendidly. It is a limited programme.

"A certain number of divisions had been allowed to be

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balanced. But there was enough manpower in the Army balance and double the number of the divisions, though that would perhaps require enormous amounts of money."

Therefore, it is not a small arrangement that is being contemplated.

"A strong Pakistan Army would create an enormous amount of stability in this region.—"tha to its say, the purpose, according to the Pakistan Commander-in-Chief; I do not charge this to the United States—"We could control a number of difficult situations in this region."

We are probably one of the difficult situations. Are we to assume that the United Nations—and certainly we do not assume that the United States does—has come to the conclusion that the stability in a region is dependent upon its army? Stability in a region is dependent upon the economic well-being of the people, upon their contentment, upon the progress of democracy—by conferring, for example, upon the people in "Azad" Kashmir the power to express themselves instead of suppressing them. And here, we have a strong statement of the Pakistan Commander-in-Chief that "a strong Pakistan Army would create enormous amount of stability in this region. We could control a number of difficult situations in this region."

I have not come to the best piece of this. It comes now. This is what must worry everybody. The report states:

"General Ayub said that this was the first time that exercises envisaging the use of tactical atomic weapons were being staged in Pakistan." —I did not invent this— "Hitherto, Pakistan Army studies have been confined to the studies of atomic warfare in the tactical field.

"To put our observations to the practical test this exercise is being staged.

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"Conclusions and the technique of fighting in the nuclear battlefields would be evolved from this exercise.

"Exercise is being staged keeping in view the terrain in West Pakistan plains where riverine obstacles"—there are no rivers on the other side in the way of obstacles, they are on this side. I do not have a copy of a map to circulate, but you know where the riverine obstacles are—" are frequent. The battle has been developing during the past two months. Now the climax is about to be reached." This is about Army manoeuvres. "A riverine obstacle across which the 'enemy' is concentatrated is to be crossed so that the 'enemy' concentration can be attacked from the rear with the tactical atomic weapons."

I ask the Security Council to make its own estimate of whose rear. This is the position which we are facing. This is the position which we are facing in regard to the enormous quantity of war material that has gone there. Now we have, on the admission of General Ayub, the supply of atomic actical weapons to our area by a country that has pledged itself not to use its advanced atomic knowledge—its considerably advanced atomic knowledge over Pakistan or any other Asian country, for that matter—for military purposes. For our act of self-abnegation not to use atomic power for destructive purposes, we are threatened by the other side with attacks from the rear and, for the first time, exercises are taking place with atomic tactical weapons. Not a needle is given by the United States, with a view to attacking us. But I submit that with all the power that the United States possesses—moral, physical, political, dollar and everything else—it would be impossible for them to control what Pakistan has, any more than a parent can control the use of a pistol or a penknife by a child. That is the position.

This is our reply to the remarks by the United States about the glory of that alliance. After all, there was no point of introducing it into the statement other-wise. My delegation

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has gone much further into this field than it had intended to go. The initiative was not ours. We deeply regret this aspect of the matter. I hope that the representative of the United States will not mind my saying this. It is the practice, which we, derive from the father of our nation, to tell the other party what we are going to do. Therefore, in making these statements, we have informed the United States delegation that we propose to use these facts.

The Security Council is the master of its own procedure and its own decisions. It has heard many statements, some of which having no relation to the facts set out in the documents before the Council. The only question to which thought must be given now is: What is the effect of all this? We came here under Chapter VI of the Charter; there has been no suggestion of using Chapter Chapter VII. We have not asked for it. It cannot be used against us because we have not invaded anyone's territory unless, of course, you were to accept the view of the representative of the Philippines that we have no business in our own area. To carry out that view would take a lot of doing, even here. Therefore, the only procedures that can be adopted are pacific procedures. The essence of pacific procedures is mutual consent. The Security Council after 20 January 1948 has time after time passed resolutions under the initiative of the United Kingdom, afterwards joined by the United States, and now jointly, which India has not been able to accept. They have been informed publicly and privately that we have been unable to accept them, but the Security Council continued to pass resolutions without any reference to conciliation, without any reference to the possibility of acceptance, and, what is more, in this particular case a draft resolution has been presented which largely embodies the proposals that have been put forward by one side. This is not calculated to bring about a settlement. We hear phrases, even from Ganeral Romulo, that the two sides must decide on something themselves. But no one is helping us. The result of this decision and its effect upon the people will be once again that there is no conformity between the resolution and the ethical principles of the Charter and that something has gone

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wrong somewhere. That will be the result of this kind of procedure where you speak about demilitarization when the invader has made further conquests and has reaped harvests from them, and not a whisper is evoked by the eleven nations gathered round this table. A part of our territory has been forcibly incorporated and over a million of our people are under suppression. What answer will be given to these matters by our people who will go to the polls to record their verdict? You will know by the middle of next month what our people feel about this.

I say in all sincerity that both Sir Pierson Dixon and Mr. Barco, in speaking for Mr. Lodge, are entirely sincere in thinking that their presentation will assist in getting somewhere. But we are in this problem. How do we convey to our people. that the proposal which reflects the views of the side which invaded us is a proposal that will bring about conciliation? It has been said that there is no objection to looking at something even if it is not accepted. But every time we have looked at something we have been told that we have accepted it. We do not want that to be repeated.

I say, therefore, that the Security Council now takes upon itself another dose of serious responsibility. Let not General Romulo say that I was admonishing. I am here to represent the views of the Government of India. What is more, I am happy in the sense that I have no compunctions and no conflict of mind or conscience on this matter. I have read these papers, thousands and thousands of pages of them. I have spent nights and days over them, and I have no doubt that any impartial and competent examination of these documents will lead to one conclusion only, and that is that the nine years of effort that have been spent by Pakistan in consolidating its conquest and invasion have been in violation of the Charter; that the Security Council has been invoked not in order to bring about peace but in order to be used as a sledgehammer to strike another blow against us.

We make no threats. I repeat once again my final words: We shall not do a thing, whatever are our political, moral,

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ethical, legal or any other rights, which involves the use of force to alter situations. That is our position at present. What will happen in generations to come nobody can ever guarantee. I would like that also to be remembered, because some of us are drawing close to our end and others will come after. This may go on for a long time.

But while we will not do that, I want to repeat again that all the signs which I read out to the Council in the statements by General Ayub, all the information that we have about the massing of these troops, all that goes on in the lobbies of the United Nations, which members may seen in the Press tomorrow—this is all an indication of a repetition of the processes of 1947. And again we shall be told in this Council that the Indian Army moved in first. I want to be perfectly frank with the Council, as I am sure my Government would want me to be. We have no irregulars, we have no guerrillas, we have no bandits—we have no one except our regular Army and our armed police force to meet aggression. On the other side there are the irregulars, the bandits, the people who have committed rapine and plunder, people who raped and murdered others of the same faith, the people who talk about co-religionists. They are the pioneers and the forerunners of the new invasion. We have to meet them with regular troops, and the regular troops are identifiable. Let it not be said in the Security Council at any time that the Indian Army moved in first.

I pledge the faith of my people that if our territory is attacked, we shall defend it to the last man. All these threats that have been made in the Council will only create irritation. We deeply regret, as my Prime Minister has said, the resolution adopted by the Security Council on 24 January in regard to the Constituent Assembly [S/3779], the same Security Council that would not lift a finger when half the territory was incorporated. And here we have done nothing unconstitutional and have made no physical change from the position of 1947. Sir Pierson Dixon, however, believed that we were doing something wrong and he accepted the crisis atmosphere.

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I therefore beg of Sir Pierson Dixon to realize that whatever arrangements he may come to so as to push this thing through and to hand over to India what amounts to a non-conciliatory effort, what amounts to a Pakistan proposal, will not bring about peace. However, whatever resolution the Security Council may adopt, however hostile it may be to us and however much we may not be able to accept it, at no time has the Government of India said that it would not look at it.

So far as the President of the Security Council is concerned, he is welcome in our country at any time, but his terms of reference have to be examined in a political context. That is why, as the people who are most affected by this, we say to you, before you take another step which may worsen the situation—a situation already bad—which feeds the dogs of war, which encourages the forces of conflict and, what is more, at a time of a great national election when 200 million people are in the process of political awakening, which conveys to them feelings which have relation to communal tensions, to Hindu-Moslem feelings or the intervention of other peoples or the past relations of Britain with India or theories about realtions with other countries and with regard to military alliances, that all these things are fraught with great danger.

We have no right except to plead, because we are not members of the Council. We cannot give you counsel. You have asked us to express our opinions, and our opinion is that this is a step fraught with danger.

167. *Text of the speech made by Mr. Noon (Pakistan) in the Security Council meeting No. 774 held on 21 February 1957.*

The debate on this question has roamed over a wide field and a large number of seemingly controversial issues have been canvassed. I am sure it would help the Security Council if I were to state in concise terms the position as Pakistan views it.

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I venture to submit that the points of controversy between Pakistan and India over the question of accession of the State of Jammu and Kashmir to Pakistan or to India lie within a narrow compass, and the records of the Council disclose a much larger degree of agreement between the two Governments both on principles and on procedure than the debates before the Council might lead the members to imagine.

I submit that India is fully committed to the principle formulated by the Government of India and communicated to the Government of Pakistan and reiterated on several occasions before the Council that in the case of a State where the ruler belonged to one community and the majority of the people to the other, the question of accession must be determined in accordance with the freely expressed wishes of the people of the State. Further, there is agreement with respect to the State of Jammu and Kashmir that once the tribesmen have withdrawn and law and order has been restored, the Government of India would withdraw its armed forces from such areas of the State into which they had entered and that the wishes of the people in the matter of accession would be ascertained through the democratic method of a free and impartial plebiscite carried out under the auspices of the United Nations. This would appear both from the telegrams exchanged between the two Governments before the matter was brought to the Security Council and the resolutions of the United Nations Commission for India and Pakistan accepted by both Governments.

A certain degree of progress towards the implementation of these resolutions was made in the first months of 1949, but since then a deadlock has prevailed, mainly in respect of the compliance with those portions of the resolutions that relate to what has generally, since, been described as the demilitarization of the State.

It has been contended on behalf of India that progress towards the holding of a free and impartial plebiscite under the auspices of the United Nations cannot be made until Pakistan's armed forces are withdrawn from the "Azad" Kashmir territory.

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I wish to state clearly and definitely that the Government of Pakistan has at all times been ready and, indeed, eager to carry out all its obligations under the resolutions of the Commission, including the obligation of the withdrawal of its troops in accordance with the terms of the resolutions. On no occasion has there been any agitation or equivocation on the part of Pakistan in respect of the discharge of its obligations. Pakistan has been so anxious to proceed towards a settlement of this question in accordance with the resolutions of the Commission that on occasions it has been willing to do more, and earlier, than the resolutions call for, so that rapid progsess might be made. I repeat that Pakistan is willing to proceed with this matter in accordance with any of the proposals hitherto made by any of the United Nations representatives, provided India is willing to do its part at the same time.

My Government deplores the exercise of the veto by the Soviet Union [773rd meeting] in respect of the four-Power draft resolution [S/3787]. The situation in Kashmir constitution a grave threat to the maintenance of international peace, and it has come as a shock to the people and the Government of Pakistan that a great Power like the USSR should have seen fit to veto resolution designed to promote a solution of this very grave and thorny problem through peaceful methods.

It has been said that India objects to the consideration of the Pakistan proposal for the introduction of a United Nations force on its own side of the cease-fire line. The sole purpose of this proposal was to facilitate the withdrawal of Pakistan troops to which India attaches so much importance, so that the process of demilitarization could be put into operation and completed thereafter in accordance with the terms of the resolution of the Commission. It was never intended to be utilized in the holding of a plebiscite as the representative of the Soviet Union mentioned in his speech [773rd meeting, para. 21]. The task of organizing and actually holding the plebiscite is under the terms of the resolutions, assigued to the Plebiscite Administrator. In a sense, the intro-

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duction of a United Nations force would amount merely to an augmentation of the United Nations observers. It could thus be tantamount to a use of those procedures which have so far been followed with some success under Chapter VI of the Charter.

This is one of those instances where Pakistan has been willing voluntarily to do more than it had undertaken to do under the resolutions of the Commission to meet India's objections. We are at a loss to understand for what reasons the consideration of this proposal made by Pakistan was considered objectionable by the USSR.

The second reason put forward by the USSR is that, inasmuch as India is not willing to accept the resolution, the resolution should not be adopted. The Council is engaged in the very difficutt and delicate task of bringing about a settlement through peaceful methods of a long-standing dispute which, as I have said, constitutes a grave threat to the maintenance of international peace. In carrying out this task, it was seeking to adopt a resolution which would start the final stage of achieving the objectives aimed at by the Security Council from the very beginning and agreed to by the parties to the dispute and clearly set out in the resolutions accepted by them. In respect of several previous efforts of the Council in the same direction, a similar situation had arisen. India had indicated its unwillingless to accept the proposed solution. Indeed, there may have been instances when neither party was willing to express its acceptance of the resolution in advance. Nevertheless, the resolutions were adopted, and both parties thereafter co-opera ed with the United Nations Representative in the efforts to carry out the objectives of the Council's resolutions.

The Government of Pakistan is distressed to learn that a permanent member of the Security Council should consider the unwillingness of a part to accept a resolution in advance as sufficient reason for the exercise of a veto. I venture to submit that such a negative attitude on the part of a big Power would hardly be conducive to the settlement of any dispute. It is surprising to us that the representative of the

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Soviet Union should argue that the voice of India alone should decide this case, and not that of Pakistan.

To sum up, the position is this. The question of the accession of the State of Jammu and Kashmir to Pakistan or to India is a matter in dispute between Pakistan and India. The dispute involves in essence the right of self-determination of the people of the State on this disputed question of accession. Whatever the defaults on the part of India or of Pakistan, the people of the State possess this right and cannot be deprived of its free exercise. India and Pakistan have agreed, and this agreement has been endorsed by the Security Council, that the question shall be determined through the democratic method of a free and impartial plebiscite held under the auspices of the United Nations. Until the plebiscite is held and is certified by the United Nations Representative to have been free and impartial in accordance with the resolutions of the Commission, the territory of the State of Jammu and Kashmir is neither part of India nor part of Pakistan. The *de facto* position is that India occupies certain parts of the territory of the State, an d the remaining parts are under the control of the "Azad" Kashmir authority.

The international agreement is binding upon India and Pakistan. Indeed, it has been clearly stated on behalf of India, during these last debates also, that this agreement is the only binding obligation upon the two Governments in respect of the State of Jammu and Kashmir, and that the whole of this agreement stands together—no part of it can be used laterally, repudiated or frozen. Any such attempt would amount to a repudiation of the principles of the United Nations Charter, which obligate all Member States to seek a settlement of their internntional disputes through peaceful means,

Finally, Mr. President, about your own mission : we have already said, and I repeat, that you are most welcome.

168. *Text of the speech made by Krishna Menon (India) in the Security Council meeting no. 774 held on 21 February 1957.*

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All I can say about the very worthy sentiments that have come from the representatives of Colombia and the Philippines is that their expression of opinion has come ten or twelve minutes too late. If it is the wish of the Security Council to remove the statement just made by the representative of Pakistan from the records, that is one thing. But at this stage to introduce very acrimonious, challenging and entirely untrue statements in regard to India, cannot go unchallenged even if I, for various reasons, do not want to make a speech.

Mr. ROMULO (Philippines) : On a point of order, Mr. President : I think that this should be a discussion between the members of the Council.

The PRESIDENT : The Council has before it a request for a recess. As there is no objection to this request, the Council will now recess for ten minutes.

The meeting was suspended at 3.35 p.m. and resumed at 3.45 p.m.

The PRESIDENT : I now call upon the representative of India. I hope that he will take into consideration the remarks of the members of the Council with regard to the Council's further procedure.

Mr. Krishna MENON (India) : I am deeply beholden to the President and to the Council for their kindness in allowing us a few minutes in which to think this matter over. We think that there is considerable merit and cogency in the statements made by the representative of Colombia and the representative of the Philippines to the effect that at this stage further detailed debate consisting of answering controversial points raised is not only not of value but, perhaps, not appropriate in view of the protracted proceedings. It is the intention of my delegation, therefore, not to take that course,

Thanks to the very kind courtesy of the delegation of Pakistan, we have been able during the recess to look at the script of the statement which the representative of Pakistan made before the Council. It is necessary, for purposes of record, for us to say that we dissociate ourselves totally from

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a large number of the statements contained in it—the approach that is made to the problem—and to point out the fact that the statement itself really reopens the whole ambit of the discussion and that, therefore, any piecemeal reply to it would be unsatisfactory.

I shall, therefore, confine myself to the draft resolution that is before us [S/3792 and Corr. 1.].

With regard to this draft resolution, the position of my Government is what I have repeated several times before. We are not members of the Security Council; we are only asked to offer observations. We have already referred to the facts. It is my duty to tell the Council that the draft resolution will be communicated to the Government of India, and that the Government of India will take it into consideration, with such advice as we are able to receive from you, Mr. President, because the draft resolution places you in a particular context. The statements made at the 773rd meeting by the delegations of the United States and the United Kingdom—or other statements—do they form part, in any sense, not of the draft resolution but of your mission ? So far as we are concerned, there are several points which we have to make clear, and I shall do that in a very few minutes.

First of all, the only resolutions in which my Government feels engaged—and I use the word "engaged" deliberately—are those which it has accepted. For resolutions passed by the Security Council under Chapter VI of the Charter have no binding effect upon Member States unless they consent. We have rejected them, and indeed the Commission, after our rejection, had proceeded on the basis that we had not accepted them. Therefore, while we cannot object to this exercise by the Council of recalling resolutions, what its value is would be for the Security Council to decide in the future.

We deeply regret what is in our opinion the unnecessary and provocatives pinpointing of the resolution of 24 January 1957 [S/3779], especially as the generic phrase "its previous resolutions" had been set out. The same applies to the words "having regard to the previous resolutions of the Security

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Council" My Government freely confesses that the Security Council must have regard to its own resolutions, but so far as Member States which are not members of the Security Council are concerned, when proceedings under Chapter VI are being pursued, its relevance to them is based only upon consent. That is all there is to it.

I wish to state that our approach to this problem is based upon the following and the fundamental considerations which have been advanced before the Security Council from 1 January 1948 until 20 February 1957.

First, the State of Jammu and Kashmir is a constituent unit of the Union of India by law, by equity, by every moral and political consideration, and the only authority that can legally separate the State is the sovereign Parliament of India. This is not only municipal law, but law which must be recognized as international, more particularly by the delegations of the United Kingdom, the United States, Australia and France, which have recognized in their legal systems that municipal laws which obtain general currency automatically become part of international law.

Secondly, there is the principle that the territorial integrity of the State of Jammu and Kashmir is inviolable. We cannot accept the situation of so-called *de facto* occupation mentioned in the statement of the representative of Pakistan. The sovereignty of the Jammu and Kashmir Government over the whole area, the responsibility of the Government of the Union of India for the security of the Union as a whole, are basic factors from which we cannot depart. Neither can we at any time abandon the commitments we have made in the light of deliberate and public assurances given to us, which are part of the consent that the Government of India has proffered to the propositions placed before it.

Equally, in the conditions of today, India cannot afford to disregard—as no country can, in the conditions in which we live, afford to disregard—the internal and the external security of our land. And under that heading there must be included in the account the endormous amount of war material that has

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come into pakistan through United States military aid and which includes, as I said yesterday [773rd meeting, paras. 103 to 108], either the present or the future possibility of the use of tactical atomic weapons, to which the Commander-in-Chief of Pakistan referred.

These and the other factors set out in the statement I made yesterday on behalf of the Government of India are part of the approach of the Government of India to this problem.

At the same time, I repeat two propositions; First, the President of the Security Council will always be welcome in India. The hospitality of our land and the courtesies of our Government would be at his disposal. Secondly. India is not in a position—and I say this not with any desire to cause delay—to consider any matters of high policy until a new Government is established in the country, which will take place, at the earliest, in the latter half of March.

I shall not take the time of the Council any longer except to reiterate these conditions. But it ts appropriate to point out two things. Any new attempt in this direction, if it is even to open the first pages of a new book, has to start with the calling off the dogs of the war of hatred. We will not sit under the crusade of a "holy war". Secondly, I want to invite the attention of the representative of the United Kingdom to a dispatch that has come from Muzaffarabad, in West Kashmir, which is he Pakistan-occupied area. This dispatch appeared a few days ago in the "Daily Telegraph" of London. It points out that "Azad" Kashmir forces, which are technically under the Pakistan General Command, are stated to number 35,000, and it goes on to say that the Minister of the "Azad" Kashmir Government "claimed that this figure could be increased overnight to 80,000, of whom 70,000 are trained ex-soldiers."

These are all well-known facts, as are the facts about the vast quantity of munitions, of war material, that has flowed into Pakistan, and they are to be considered against the background of the statement made by the Pakistan Commander-in-Chief about tactical atomic weapons in order to deal with the enemy across the "riverine obstacles" [773rd meeting, para.

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108). (I am sorry that Mr. Lodge was not here during the 773rd meeting, but I am sure this has been conveyed to him.) In those circumstances, the sovereign duty and responsibility of any country is to look after its security.

Finally, I should like to say that I will take steps to communicate the Council's resolution to the Government of India, which will take it into consideration as soon as a new Government is formed after the general election.

169. *Text of the speech made by Mr. Noon (Pakistan) in the Security Council meeting No. 791 held on 24 September 1957.*

I am sure that all peace-loving nations of the world will share with me a profound disappointment at the failure of yet another United Nations mission to resolve the nine-year old deadlock over the Kashmir dispute.

Mr. Gunnar Jarring, who visited the Indo-Pakistan sub-continent in March-April last under the mandate of the Security Council dated 21 February 1957, concludes his brief report by saying that he is unable to report to the Security Council any concrete proposals likely to contribute towards a settlement of the dispute. Thus, all hopes of an amicable settlement of the dispute, which has been pending in the Security Council for the past several years, have once again been shattered. Every effort which has been made by the four mediators appointed by the Security Council from time to time to remove the deadlock and to create appropriate conditions in the State of Jammu and Kashmir for the holding of a fair and free plebiscite under the auspices of the United Nations has met with failure for the simple and only reason that India is not prepared to carry out its international obligations.

Before I proceed further with any statement, I wish to express my personal thanks and the deep appreciation of my Government to the distinguished representative of Sweden, Mr. Gunnar Jarring for his sincere endeavours towards the settlement of the dispute.

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It is not necessary for me at this stage to repeat the history of this dispute, nor is it essential to recapitulate all the stages through which it has passed since January 1948. I shall, therefore, proceed at once to an examination of Mr. Jarring's report.

Perhaps the most gratifying part of the report is Mr. Jarring's reaffirmation that both India and Pakistan stand committed to the resolutions adopted by the United Nations Commission for India and Pakistan on 13 August 1948 [S/1100, para. 75] and 5 January 1949 [S/1196, para. 15]. As these two resolutions constitute a specific agreement that can and must be implemented, it was quite natural that Mr, Jarring should proceed to explore what impeding their implementation.

Making a brief reference in his report to the resolution of 5 January 1949, which envisages the holding of a free and impartial plebiscite, Mr. Jarring has stated that he explored the question of the plebiscite and proposed ways and means by which any difficulties which might arise could be met, or at least substantially mitigated. He records that he made a number of suggestions to this end to both the Governments. His further statement that his suggestions did not prove to be mutually acceptable is likely to cause some ambiguity and misunderstanding and, therefore, would require clarification. It must be granted to Mr. Jarring that most of his conversations with the two Governments were of a confidential nature, and it would be improper to expect him to divulge the exact nature of his talks with either party. But this much we could expect him to say in general terms: that there was nothing which he suggested as a solution which we did not accept. Mr. Jarring will bear me out if I say that Pakistan accepted every suggested that he made for a peaceful solution of the problem. It can, therefore, be concluded that if Mr. Jarring's suggestions were unacceptable, they were unacceptable to one party alone—and that party was India.

Mr. Jarring has not defined the nature of the "grave problems which might arise in connexion with or as a result of a plebiscite" in Kashmir. We maintain that every conceivable

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problem that has any bearing on the question of the holding of a plebiscite was discussed and taken care of in the international agreement contained in the two resolutions, adopted by the United Nations Commission for India and Pakistan on 13 August 1948 and 5 January 1949. When Mr. Jarring refers to grave problems, he is obviously not referring to any problem raised by Pakistan, nor is he referring to anything said by any member of the Security Council or to any mandate of the Security Council, because all the resolutions of the Council are unequivocal in their purport—which is that the original agreement contained in the two resolutions of 13 August 1948 and 5 January 1949, should be implemented without any further delay. Mr. Jarring has not said anywhere in his repor that he thought that any insuperable obstacless had arisen which made the implementation of the agreement difficult. It is quite evident—and this is borne out by the various reports of the different United Nations representatives—that, given goodwill, the agreement can certainly be implemented. All that Mr. Jarring is obviously referring to is the changed attitude of the Government of India with regard to the implementation of the agreement.

No change of any kind which should render the holding of plebiscite impracticable has taken place in Kashmir. The basic factors which existed nine years ago exist today. The changes, if any, in occupied Kashmir are the creation of India itself and have been brought about in direct defiance of the directives of the Security Council. India sureiy cannot plead the length of its aggressive stay in Kashmir as an execuse for not honouring its international agreement.

It is alleged by India that if a plebiscite is held in Kashmir, the Muslims of India would be placed in jeopardy, that they would be murdered by the Hindu majority, and that there would be a general migration of Muslims from India followed by the migration of Hindu from Pakistan. This is a strange argument indeed. In 1953, Mr. Nehru had also hinted at this possibility. I will read out, in part, the reply which our Prime Minister sent to him then :

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"You refer to the necessity of preventing large-scale migrations that would be an upset of a major character. The decisive factor in preventing any major upset will be the spirit in which our two Governments approach this problem. If in this approach we are able to maintain a spirit of goodwill and friendship between our two countries—an amicable solution of the Kashmir dispute will in itself contribute most powerfully to the building and maintenance on such a relationship—there is no reason why the people in the State should have any misgivings as to their future or wish to leave their homes."

The threat that 40 million Muslims residing in India would run the risk of virtual extermination at the hands of Hindu fanatics is nothing short of a confession, not merely of weakness, but of ill-will. It is nothing short of a confession of religious animosity which Hindu still entertain towards the Muslims of India. It is nothing short of an admission that the Muslims of India are hostages for Kashmir. This threat of genocide is political blackmail of the lowest order and discloses a mentality which makes one shudder. There are proportionately as many Hindus in Pakistan as there are Muslims in India. But we have never indulged in this type of blackmail by threatening that if Kashmir does not come to Pakistan, the Hindu minority in Pakistan will be exterminated. It cannot possibly be believed by those who are aware of the resources of India that if the Prime Minister of India sincerely desired that there should be no genocide of Muslims as an act of vengeance, he would not be able to maintain law and order in his country.

Again, it is absolutely wrong to assert that an appeal to voters would be on religious lines. It is a well-known fact that a number of prominent Hindu leaders of Kashmir, like Pandit Prem Nath Bazaz, are in favour of a decision through plebiscite, and are suffering much tribulation at the hands of Mr. Nehru's Government for advocating the accession of the State—their homeland—to Pakistan. It is also a fact that the Vice-President of the Kashmir Political conference, which

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openly advocates accession to Pakistan and of which more than a dozen leaders are behind the bars without trial, is a Hindu Pandit of the Valley—Mr. Lakhanpal—who is a prominent Hindu leader of India, who has constantly been urging Mr. Nehru to honour his obligations and who has set up a Committee called the "End Kashmir Dispute Committee" for this purpose.

How is it that suddenly, after ten years of comparative calm, following the holocaust which befell the sub-contiment in 1917, it is now being asserted that if the people of Kashmir are allowed to exercise the right of self-determination, it will lead to the general massacre of the 40 million Muslims in India ? There is an obvious implication here that the Government of India is certain that the voting in a plebiscite will go in favour of Pakistan. And it is also obvious that this certainty is the real reason why India is avoiding a plebiscite.

India, according to Mr. Jarring, has alleged that two factors stood in the way of implementation of the resolutions adopted by the Commission for India and Pakistan.

The first of the two Indian alleged impediments is that part I of the resolution of 13 August 1948 and particularly paragraphs B and E have not been implemented by the Government of Pakistan. The second Indian alleged impediment is that it is incumbent on the Security Council to express itself on the question of aggression and equally incumbent on Pakistan to vocate the aggression. For the sake of convenience I shall deal with the second allegation first.

The Indian allegation of aggression by Pakistan it will be seen, was summarily dismissed by Mr. Jarring as irrelevant to the task of the settlement of the Kashmir dispute which had been entrusted to him by the Security Council. Throughout the previous discussions in the Security Council, the representatives of all the Power, great or small, who have considered this issue since January 1948, have all regarded the Indian allegation as unworthy of consideration. The scope of the unanimity is clear from a list of the countries in which have participated in the Council's deliberations and none of which

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is on record as having given even the slightest credence to the Indian alelgation. The countries concerned are Argentina, Australia, Brazil, Canada, China, Chile, Colombia, Cuba, Egypt, Ecuador, France, Greece, Iraq, Neitherlands, Norway, Philippines, Sweden. Turkey, the USSR, the Ukrainian SSP, the United Kingdom, the United States of America and Yagoslavia.

In fact, the United Nations Commission for India and Pakistan was in possession of the full facts when it framed the resolutions of 13 August 1948 and 5 January 1949, which were accepted by both India and Pakistan and now constitute a valid international agreement. Nowhere has the Commissian or any mediator called Pakistan an aggressor. Sir Owen Dixon himself did not make any "judicial investigation of the issue" [*S/1791, para, 21*], as he put it, in spite of India's insistence that Pakistan should be declared an aggressor, but only made a certain assumption in order to put a stop to Indian procrastination over the question of the demilitarization of the State.

Mr. Jarring has clinched the issue in these words :

> "I explained to the Government of India that the Security Council had properly taken cognizance of the original Indian complaint, and that it was not for me to express myself on the question whether its resolutions on the matter had been adequate or not. I pointed out tnat regardless of the merits of the present position taken by the Government of India, it could not be overlooked that India had accepted the two resolutions adopted by the Commission for India and Pakistan. [*S/3821. para. 14*].

I shall now turn to the point of Mr. Jarring's report, which deals with the first Indian allegation, namely the alleged non-implementation of part I of the resolution of 13 August 1948 [*S/1100, para. 75*], and in particular, paragraphs B and E of that part. Paragraph B, as the Security Council will recall, enjoined upon India and Pakistan to refrain from augmenting the military potential of the forces under their

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control in the State of Jammu and Kashmir. Paragraph E indicated the agreement of the Governments of India and Pakistan to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of negotiations.

In respect of this Indian allegation, Mr. Jarring records that the Government of Pakistan maintained that part 1 of the first resolution had been implemented in good faith and in full by them and that the time had come to proceed to the implementation of part II. I may remind the Security Council that the Pakistan Government had informed the Chairman of the United Nations Commission for India and Pakistan as far back as 30 May 1949 as follows ;

> "The Pakistan Government have carried out successfully the difficult and delicate operation of ensuring the withdrawal of the tribesmen in advance of the truce agreement, although this obligation arieses only after the signing of the truce agreement. No better proof could be afforded of the sincere desire of the Pakistan Government to take all steps possible to promote peace and tranquillity in the State and to pave the way, as rapidly as possible, for the holding of a free and impartial plebiscite."

When submitting his third report on 22 April 1952 [*S/2611 aud Corr. 1*]. Dr. Frank Graham, the United Nations Representative for India and Pakistan, made a categorical statement in paragraph 29 of his report that part I of the resolution of 18 August 1948 had been implemented. In paragraph 36 of the same report, he went on to say that even part II of that resolution had to a considerable extent already been implemented. The assumption that part I of the resolution had been implemented was repeated by Dr. Graham in paragraph 44 of his fifth report [*S/2967*] which was submitted about a year later on 27 March 1953.

I should like to make it quite clear that all negotiations after the conclusion of the cease-fire line agreement were under-

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taken to implement part II of the resolution of 13 August 1948. It was accepted by both parties that part I of the resolution had been implemented. Dr. Graham has very rightly observed in this behalf that the primary objective of the United Nations Commission for India and Pakistan during the first stage of its activities was to obtain a suspension of hostilities. The cease-fire was agreed upon between the two parties and made effective on 1 January 1949 and, as a completion of this part of the resolution, the cease-fire line was agreed upon between the two Governments under the auspices of the Commission in the Karachi agreement, of 27 July 1949. The excuse that part I has not been implemented is now being put forward for the first time by India wilh a view to re-opening issues which have long been settled. The obvious object is to obstruct progress in the implementation of part II o. the resolution, that is, demilitarization. The negotiations conducted by the Commission and the United Nations representatives were all directed towards finding a basis for the implementation of part II. At no stage did India refuse to enter into these negotiations on the plea that Part I had not been implemented by Pakistan. The talks failed mainly because of India's obduracy to reach an agreement on the issue of demilitarization. India also did not raise any such question in the course of direct talks held between the Prime Ministers of India and Pakistan in 1953. The experts committees, including Army representatives, set up by the two Governments, indeed, covered considerable ground of part II of the resolution in their attempt to remove differences arising out of the character and quantum of forces which were to remain on both sides of the cease-fire line-after demilitarization. India could only have re-opened the question if there had been any subsequent violation of the cease-fire agreement. If any such violation had taken place, it was the responsibility of the United Nations Military Observer Group for India and Pakistan to report it to the Security Council. Has the Security Council received any such report ? If not, the conclusion is inescapable that part I has not only been successfully implemented but that the spirit of the cease-fire agreement has been observed by both the parties.

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It may be argued, and indeed institutions to this effect are being heard in India, that because Pakistan has entered into certain regional alliances; such as the South East Asia Treaty Organization (SEATO) and Baghdad Pact, and because Pakistan is receiving military aid from the United States, its military potential has increased and therefore, there has been a violation of the resolution of 13 August 1948. I shall refer to Pakistan's defensive alliances later in my statement. All that is necessary here to say is that a bare perusal of this resolution would expose the absurdity of the charge. All that part I, paragrabh B of the resolution in question prohibited was the augmentation of the military potential of the forces under the control of the respective Governments in the State of Jammu and Kashmir. It never could, and did not, contemplate that the two countries concerned would, so long as the dispute remained unsettled, take no step whatever to improve their defence positions otherwise.

Pakistan has not in any manner whatsoever augmented the military potential of her forces stationed in the State of Jammu and Kashmir. In fact, Dr. Graham definitely stated in paragraph 32 of his third report [*S/2611 and Corr. 1*], that the present number of armed forces on the Pakistan side of the cease-fire line was estimated to be less than 50 per cent of the number of armed forcee existing on 1 January 1949, when the cease-fire became effective. Moreover, as I have already stated, the United Nations Military Observers are in a position always to watch and report any such increases, and, as far as we are aware, no such objection has ever been raised by them against Pakistan. If India objects to an increase in the defensive power of Pakistan inside Pakistan. then it might well be asked : what about the great increase in the defence forces of India inside India ?

To turn now to paragraph E of part I of the resolution of 13 August 1948 : all that this section enjoins upon both parties is that each Government should appeal to its people to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations. The fact that further negotiations did take place between the parties thereafter and

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continued right up to the end of 1953, when Pandit Nehru broke off direct talks, proves that Pakistan had futfilled its part of the obligation in this respect. Under paragraph E, all that the two Governments agreed to do was to appealed to their peoples. Not only has the Government of Pakistan appealed to the people in this sense, but also the late Prime Minister of Pakistan, Mr. Liaquat Ali Khan, entered into a solemn agreement with the Prime Minister of India in 1950 on this subject, which agreemet has been fully carried out by Pakistan.

The fact of the matter is that, in all previous negotiations, India never raised the plea of non-implementation of part I of the 1948 resolution. Indeed, the previons United Nations mediators, such as Sir Owen Dixon and Dr. Graham, after a thorough examination of the whole problem, have recorded their conclusion that the only impediment to the full implementation of the two resolutions of the Commission for India and Pakistan was not part I of the 1948 resolution, but the difference of opinion between the two Governments on the question of demilitarization as a prerequisite to the holding of the plebiscite. This position was accepted by the Security Council, which, in the preamble of its resolution of 30 March 1951, says :

> "*Observing* from Sir Owen Dixon's report that the main points of difference preventing agreement between the parties were :
>
> "(*a*) The procedure for and the extent of demilitarization of the State preparatory to the holding of plebiseite.
>
> "(*b*) The degree of control over the exercise of the functions of government in the State neccssary to ensure a free and fair plebiscite." [*S/2017/Rev. 1*].

Subsequently, in paragraph 46 of his third report, Dr. Graham remarked as follows :

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"The chief remaining obstacle is the difference over the number and character of the forces to be left on each side of the cease-fire line at the end of the period of demilitarization." [*S/2611 and Corr. 1, para. 46*].

Acting on the assumption that demilitarization was the real issue, the Security Council itself having received Dr. Graham's third report, decided to go forward and to recommend in its resolution of 23 December 1952, that the Governments of India and Pakistan should :

"...enter into immediate negotiations under the auspices of the United Nations Representative for India and Pakistan in order to reach agreement on the specific number of forces to remain on each side of the cease-fire line at the end of the period of demilitarization..." [*S/2883*].

It is crystal clear, therefore, that all that India had disputed hitherto was the number of soldiers that should remain on one side or the other and that it had raised no other issue to stall or resist the holding of a plebiscite in the State. The only point in dispute, therefore, that remains to be settled between the two countries is the simple one of how many soldiers should be allowed to remain on each side of the cease-fire line pending the plebiscite.

The sole reason for India's now attempting to restart all controversies which have been set at rest and to re-open all the issues that have already been settled, abandoned or waived during the last ten years, is to create confusion, delay decisions and implementation of decisions, and to cloud the very simple issue of demilitarization. I regret to have to tell the Security Council that the *mala fides* of India is only too apparent.

Mr. Jarring found himself unable to give a clear finding on the supposed deadlock concerning part I of the 1948 resolution. Nowhere in his report, however, did he support the view that part I had not been implemented. In view of India's intransigence, he decided to consult the two Government if

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they would be prepared to submit the question of whether part I had been implemented or not to arbitration. He records in the report, in a very significant sentence.

> "Being aware of the earlier negative attitude of the Government of India on the question of arbitration with relation to the Kashmir problem as a whole, I made it a point to explain to it that I was not suggesting anything of that nature, and that what I was proposing, while termed arbitration, in all likelihood would be more in the nature of a determination of certain facts which in the Indian view, were incontrovertible." [*S/3821, para. 18*].

Although the Government of Pakistan was convinced that part I had been implemented, it agreed to the request of Mr. Jarring to refer to arbitration the question whether or not part I had been implemented. This was done merely to demonstrate the anxiety of the Government of Pakistan to agree to any steps which could facilitate a settlement, without prejudice to its contention that the objections of India were untenable and that it had all along been recognized that part I had been fully implemented. The Government of India, however, whose point of view Mr. Jarring made every effort to meet, did not agree that arbitration would be appropriate, saying that the issues in dispute were not suitable for arbitration. The rejection of this suggestion for arbitration, not on the future of Kashmir, but even on the limited question of the past or present fulfilment of an existing agreement, clearly exposes India's bad faith. Once again, for the twelfth time, Pakistan has accepted and India has rejected a proposal designed to facilitate a settlement of the Kashmir dispute.

In connexion with this arbitration proposal, there is a point to which I wish to make a brief reference. India's objection is that the acceptance of the proposal might be interpreted as indicating that Pakistan has a *locus standi* in the matter. This objection is wholly untenable. There can be no manner of doubt that Pakistan is a party to the international agreement embodied in the two resolutions adopted by

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the United Nations Commission for India and Pakistan. The very fact that India accuses Pakistan of not having implemented part I of the resolution of 13 August 1948 presupposes Pakistan's *locus standi*. If Pakistan had no *locus standi* in the matter, the logical course for India would have been to refuse to become involved in the whole structure of resolutions, commissions, reports and mediators. This India has never done, as indeed in the circumstances it could not do.

It will be seen that Mr. Jarring's mission to the sub-continent of India and Pakistan has not succeeded in getting us any nearer to the solution of the Kashmir problem than was the case before he went to the sub-continent. It is, however, gratifying to note that Mr. Jarring was successful in securing reaffirmation from the Governments of India and Pakistan of their sincere willingness to co-operate with the United Nations in finding a peaceful solution of the Kashmir dispute. Further, it was clear to him that both Governments fully realized and accepted the obligations undertaken by them under the terms of the resolutions of 13 August 1948 and 5 January 1949 for the settlement of the Kashmir dispute by the democratic method of a free and impartial plebiscite to be conducted under the auspices of the United Nations. When I compare these professed adherences to the international agreements with the practical and continued defiance of these agreements by a responsible Government, I am left astounded.

In part III of his report, Mr. Jarring has made the following remarks.

> "In dealing with the problem under discussion as extensively as I have during the period just ended, I could not fail to take note of the concern expressed in connexion with the changing political, economic and strategic factors surrounding the whole of the Kashmir question, together with the changing pattern of power relations in West and South Asia.
>
> "The Council will, furthermore, be aware of the fact that the implementation of international agreements of an *ad*

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hoc character, which has not been achieved fairly speedily, may become progressively more difficult because the situation with which they were to cope has tended to change". [*S/3821, paras. 20 and 21*].

In the first of his observations in paragraph 21, Mr. Jarring is clearly referring to what he was told by the Indian Government, since nothing of the kind was ever mentioned by the Government of Pakistan. These extraneous matters have been raised by India for some time now in order to avoid its clear commitments and to bedevil the real issues involved in the Kashmir debate. But, even if for the sake of argument it is assumed that any political, economic or strategic factors have changed the pattern of power relations in West and South Asia, the changes that may have occurred have not even the remotest connexion with the plebiscite pledge to the people of Kashmir. What Pakistan or India may do or abstain from doing in the wider field of international relationships has no relevance at all to Kashmir. The recognized right of the people of Kashmir was to be exercised by them under the auspices of the United Nations, and the Plebiscite Administrator was to ensure that no outside influence would interfere with the free and unfettered exercise of this right. How in these circumstances Pakistan's membership of SEATO or of the Baghdad Pact has altered the situation to the prejudice of the people of Kashmir is beyond one's comprehension.

One of the instances mentioned by India in suggesting a change of conditions is 'that Pakistan has accepted military aid from the United States. We may well ask : who is India to question what we do inside our country ? We have, however, given categorical assurances that this aid shall not be used for aggressive purposes. The United States has also given assurances to India that if we at any time use the aid aggressively to invade India, the United States will help India to repel that aggression. The acceptance of military aid from the United States has nothing to do with the implementation of the international agreement to which India is a party. The issue raised by India is an extraneous one; and it is obvious that it is a

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clear attempt on India's part to wriggle out of its international commitments. It is pertinent to observe that India is also receiving aid from the United States and other countries, allegedly economic in nature but actually military in character, that enables it to divert its own resources, which would have been devoted to economic needs, to procurement of armaments, bombers, fighters and naval ships, to organizing and rationalizing its armament factories and to increasing its war potential. The money it spends on defence alone is more than 140 per cent of the total budget of Pakistan. Nevertheless, we have never claimed the right to question what India does inside its own territory, although as a result of this colossal armament programme it is Pakistan which should complain of a threat of Indian aggression.

In paragraph 21, Mr. Jarring obviously wanted to impress upon the Security Council the urgency of a speedy decision when he observed that the implementation of international agreements of an *ad hoc* character, which had not been achieved fairly speedily, might become progressively more difficult because the situation with which to they were to cope had tended to change. This kind of Statement is to imply that the international agreement reached between India and Pakistan on Kashmir had lost its force because India had refused to honour its commitments for so many years. If such were to be the state of affairs, then there can be no sanctify of treaties and contracts; and Mr. Jarring is the last person to advance a theory of this nature. On the contrary, he has pointed out that both countries are bound by the international agreement and has warned the Security Council that further delay might create further complications. Consequently, he has urged the Council to expedite the implementation of the previous resolutions. Complications are arising every day which may make the task of the Security Council more and more difficult; for example, the Government of India has admitted the settlement of Hindus in the Kashmir Valley. The sooner this Council insists on the implementations of its decisions, the better for all concerned. The people of Kashmir are being cheated of the fruits of freedom promised to them by the

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Security Council, through India being continuously allowed to dishonour its agreements.

I may emphasize that the agreement that was referred to in the two resolutions adopted by the United Nations Commission for India and Pakistan on 13 August 1948 and 5 January 1949 was a solemn international agreement entered into to achieve a permanent result. The agreement remains fully in force. India, in spite of its commitments and assurances that it will stand by the pledge of an internationally organized plebiscite, has nevertheless, after the passing of the two resolutions, deliberately committed acts, some of which I shall detail here. These will make it absolutely clear that the two resolutions are being continuously defied and disobeyed by India.

Firstly, Kashmir has figured as a State of India in the Indian Constitution.

Secondly, efforts were launched by India to secure popular approval of the fraudulent and invalid instrument of accession signed by the Maharaja when he had already forfeited the confidence of the people of Kashmir, as a result of which in October 1950 the Kashmir National Conference was made to pass resolutions supporting the Indian designs.

Thirdly, India set up a bogus Constituent Assembly in 1951. The history of this so-called Constituent Assembly, every single member of which was "selected unopposed", is too well known to be repeated here.

Fourthly, India took steps in 1952 to bring about the administrative merger of Kashmir with India. An agreement, known as the Delhi Agreement, was signed that year; it covered such matters as residuary powers; citizenship laws, fundamental rights, powers of the Supreme Court in relation to the State of Jammu and Kashmir, the application of emergency provisions embodied in the Constitution and the headship of the State.

Fifthly, India further tightend its grip over occupied Kashmir by the promulgation of a Presidential Order in May 1954, which had the effect of extending the jurisdiction of the Indian Union over the State. The Presidential Order also modified the definition of the term "State subjects" and broad-

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ened its basis to include all persons who had acquired immovable property there. This served to reduce the Muslim majority in the State which had already been seriously effected by the 1947 genocide in the Jammu Province.

Sixthly, in April 1954, the customs barriers between the occupied Kashmir and India were abolished.

Seventhly, Indian taxation laws in respect of income tax and customs and excise duties were extended to occupied Kashmir.

Eighthly, Kashmir's financial integration with India, which began the previous year, was completed in 1955; and the Auditor General of India was empowered to exercise the same jurisdiction in Jammu and Kashmir as in other States.

Ninthly, in April 1955, further provisions of the Indian Constitution were made applicable to the State.

Tenthly, in November 1956, India began taking steps unilaterally to integrate the State in the Union of India with effect from 26 January 1957, in complete disregard of India's assurance to the Security Council and in defiance of the Security Council's resolutions. This occasioned the adoption of another resolution by the Security Council, on 24 January 1957, which reaffirmed the Council's resolution of 30 March 1951 and declared that :

> "...the convening of a Constituent Assembly as recommended by the General Council of the 'All Jammu and Kashmir National Conference' and any action that Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action by the Assembly, would not constitute in support of any such action by the Assembly would not constitute a disposition of the State in accordance with the...principle [*enunciated by the Security Council*]." [S/3779].

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Eleventhly, India went a step further when, on 23 April 1957, it included the Jammu and Kashmir State in the membership of the Northern Zonal Council set up by the Government of India.

The Constituent Assembly of the State of Jammu and Kashmir decided to merge the State with the Indian Union. This Constituent Assembly, supposed to have been the result of the elections, was brought into being under pressure and in an atmosphere of coercion. The members were selected, and no one dared to oppose. This Constituent Assembly was a creature of Indian might, and the resolutions passed by it were obviously the result of India's commands and behests. India has clearly defied the directives of the Security Council by merging the State with the Indian Union. On the other hand, Pakistan has taken no steps whatsoever to incorporate "Azad" Kashmir territory; and, under section 203 of the Constitution of Pakistan, the relationship of the whole State to Pakistan is to be decided by the free will of the people of the State.

Recent elections in Indian-held Kashmir were clearly stage-managed. These elections were over before they began, and Mr. Bakhshi Ghulam Mohammed gained a majority before the voting even started.

Mr. President, I crave permission to ask you: In what language can I describe this calculated and dishonest disobedience of international obligations and this blatant and continuous disregard of solemn assurances repeatedly given to this august body and to its numerous representatives, including Mr. Jarring, who have striven to assist in the settlement of this dispute?

The specious plea has been advanced that the State of Jammu and Kashmir has become a part of India. If that is so, India has acted in clear defiance of the Security Council directives and is guilty of aggression in that India has annexed that State, thereby breaking its own pledged word to the Security Council. It is also argued by India that, since it has annexed Kashmir, the State is a part of the Indian Union—and that this is final. This unilateral action of India, taken in

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flagrant disregard of the Security Council resolutions, is clearly invalid. India refuses to carry out the obligations under the resolutions of the United Nations Commission for India and Pakistan, knowing full well that the people will almost unanimously vote for Pakistan in a plebiscite. We, therefore, have the right to assume that the Indian annexation has taken place to prevent the Jammu and Kashmir State from acceding to Pakistan, and that thereby India has committed aggression a second time, by refusing to vacate the State—the first time being when the Indian army invaded the Jammu and Kashmir State and occupied it by force, as it occupied the Hyderabad State and the Junagadh State. India is defying not only the will of the people of Kashmir but also world opinion; and it is the duty of the Security Council now to make India vacate this blatant aggression.

The means of solution of the Kashmir dispute are clearly set out in the resolutions adopted by the Commission in 1948 and 1949. This position was indeed, admitted by Mr. Nehru himself when, broadcasting to the nation as early as 2 November 1947, he observed :

> "We have declared that the fate of Kashmir is ultimately to be decided by the people. That pledge we have given not only to the people of Kashmir but to the world. We will not and cannot back out of it." (The Times of India, *Bombay, 3 November, 1947.*)

Unfortunately, after accepting the two resolutions of the Commission, India began to raise imaginary difficulties in the matter of the interpretation of the provisions made therein; and, consequently, for the purpose of resolving these difficulties, the Security Council was compelled to appoint, one after another, three mediators—namely, General McNaughton, Sir Owen Dixon and Dr. Frank P. Graham. But all their efforts were shattered on the rock of Indian intransigence.

The Security Council will perhaps have noted that of late a somewhat hysterical note has characterized the Indian statements about Kashmir. I refer to such statements as : "Pakis-

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tan must vacate aggression"—this, in our opinion, is irrelevant repetitition *ad nauseam*—and "Pakistan must forsake her alliances" "Pakistan must forgo American military aid", "Pakistan must show more goodwill towards India before a plebiscite can be considered", and so forth. I am afraid I find nothing about these matters in the international agreement arrived at between India and ourselves; and, in any case, I cannot, see what all this has to do with the right of self-determination of the people of Kashmir. I must add that I was a little surprised when I read in the Indian Press that Mr. Krishna Menon, speaking a fortnight ago at a public meeting in New Delhi, declared that India would regard as an "unfriendly" act any vote cast by any nation during the present meetings of the Security Council in favour of sending a United Nations force to Kashmir, or any resolution that condones Pakistan's "aggression" in Kashmir. The Council may wish to ponder deeply over this utterance from one who comes here today before this very same body and, in anticipation of its decision, has proclaimed what he regards as an "unfriendly" act.

Compare with this the attitude of the Government of Pakistan. We made several major concessions in the vain hope of achieving Indian agreement to the implementation of the two resolutions of the United Nations Commission for Indian and Pakistan. I shall enumerate some of these concessions :

Firstly, we arranged for the withdrawal of the tribesmen and Pakistan nationals from the State of Jammu and Kashmir in advance of the truce agreement, although this obligation arose only after the signing of the truce agreement.

Secondly, we agreed that demilitarization should take place in a single continuous process, as against what was originally accepted by India and Pakistan in the international agreement : that demilitarization would be in two stages.

Thirdly, we agreed that the United Nations Representative should be permitted to exercise surveillauce over the reduced "Azad" Kashmir forces, although the resolution of

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13 August 1948, as explained to us by the Commission, envisaged surveillance by the Commission—now the United Nations Representative—only over the "local authorities". The Commission stated categorically that surveillance over the "Azad" Kashmir forces was not contemplated.

Fourthly, although the Commission had sought to maintain a military balance on the two sides of the cease-fire line, we expressed our willingness to negotiate an agreement on the number of forces despite the glaring disparity between the suggested forces on the India and Pakistan side of the cease-fire line, as recommended by the Security Council.

Fifthly, we agreed to large-scale disbandment of the "Azad" Kashmir forces even before the Plebiscite Administrator assumed office, although, under the Commission's resolution, reduction and disbandment of the "Azad" Kashmir forces were envisaged only after the appointment of the Plebiscite Administrator.

Sixthly, we agreed to exclude the Militia in occupied Kashmir from the scope of the demilitarization programme, provided the Gilgit and Baltistan Scouts remained intact, although the resolution contemplated reduction and disbandment of the Militia together with the State Forces and the "Azad" Kashmir Forces.

We even compromised on the basic question of setting up an all-party Government in the State pending a plebiscite on the understanding that the Plebiscite Administrator will have over-riding powers, although the Security Council records will show that almost all members had accepted our viewpoint. We then compromised on the stages of demilitarization and then on numbers. We cannot compromise any more because that will knock the bottom out of the agreement and a plebiscite really free and impartial will not be possible.

Now that all efforts to seek a solution of the dispute through negotiation, mediation, conciliation, and other usual means of pacific settlement have failed, it is essential that the Security Council squarely face the issue raised by India's persistent refusal to carry out her international obligations with regard to Kashmir.

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In spite of the continued efforts of the Security Council, the United Nations Commission for India and Pakistan and the four United Nations mediators for India and Pakistan and in spite of direct approach and continuous negotiations between the Governments and representatives of the two countries, a deadlock has ensued. And it seems that India, while openly carrying on conversations with Pakistan and the United Nations representatives and declaring before the world that it adhered to the Commission's resolutions, was at the same time tiquietly proceeding with plans to integrate Kashmir with India.

Part I of the resolution adopted by the Commission 13 August 1948 is a closed chapter. Its full implementation has been accepted not only by all the United Nations mediators and by the Security Council but also by India itself, as evidenced by the reports of Dr. Graham. And, in any event, so far as demilitarization is concerned, the implementation of part II of the resolution of 1948 will automatically result in the implementation—if any is called for—of part I, paragraph B of the resolution.

It is, therefore, urged that the Security Council now proceed from the stage where it left the dispute on 23 December 1952 and take positive steps to bring about demilitarization so as to ensure that a plebiscite takes place in the State as envisaged in its earlier resolutions.

Owing to India's persistent failure to carry out its international commitments and solemm obligations, this dispute now clearly involves a threat to the peace, and falls under the provisions of Chapter VII, Articles 39 and 41, of the United Nations Charter.

In order to facilitate the task of the Security Council in demilitarizing Jammu and Kashmir as well as to end the long drawn-out arguments about the implementation of the Commission's resolutions so far as Pakistan is concerned, I would urge that all troops, whether of India or Pakistan, should be withdrawn from the cease-fire line and a United Nations force be stationed on the cease-fire line to prevent any violation of the line. Alternatively, the Government of Pakistan would be

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prepared to remove immediately every Pakistan soldier on the Pakistan side of the cease-fire line provided a United Nations force, strong enough to defend these areas and ensure their integrity, is stationed beforehand along the cease-fire line; and provided that India reduces its own troops to the level prescribed by the Security Council in its resolution of 23 December 1952 [S/2813]. India cannot object to this course being adopted, which safeguards it from any possible attack from the Pakistan side. Nor should India have objection to a United Nations force being posted in the territory of the State of Jammu and Kashmir, which at present is neitner Indian nor Pakistan territory, particularly since such a force will be stationed only on the Pakistan side of the cease-fire line. If India creates conditions favourable for a plebiscite. this unfortunate dispute, which has lasted over a decade and embittered relations between two neighbouring countries, will be peacefully and speedily resolved.

In conclusion, may I say that the issues before the Security Council are clear. The procedure for the settlement of the Kashmir dispute is precisely set out in the resolutions adopted by the United Nations Commission for India and Pakistan on 13 August 1948 and 5 January 1949: these resolutions, constituting an international agreement, have been accepted both by India and Pakistan. The specific objectives of the resolutions are the demilitarization of the State of Jammu and Kashmir and the holding of a free and impartial plebiscite under the auspices of the United Nations to enable the people of the State to determine the future status of their homeland. Let the Security Council proceed to secure these objectives.

On the shoulders of the Security Council rests the great responsibility not only of restoring friendly relations between India and Pakistan, but also of enabling the people of Kashmir to exercise their inalienable right of self-determination. May God give you the strength to discharge your duty with justic and fair play.

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170. *Text of the speech made by Mr. Krishna Menon (India) in the Security Council meeting No. 795 heldon 9 October 1957.*

Although my country is not a member of this august body and we are here under the appropriate provisions of the Charter in view of the subject matter we are discussing, I hope, Mr. President, you will allow me the liberty of offering you the felicitations of my delegation upon your assumption of the office of President of the Security Council. We know that it is a matter of monthly rotation, but since this is the first meeting at which you have presided and we have the honour of attending this meeting, I should like to express our appeciation.

Today, the Council is once again considering a matter which has been before it for several years, but as a citizen of India and as a representative of its Government, I cannot open this question without referring to the extensive damage that has been caused in Kashmir by the recent floods. In Jammu and Kashmir nearly seventy square miles of agricultural land were under water and 717 villages were destroyed. Large numbers of cattle have been lost and bridges have been washed away. But once again, the determination and the unity of the people of Srinagar and the Indian Army saved the city of Srinagar from being destroyed. The city has been restored from man-made havoc, and not it has been saved from natural havoc.

We meet here today in virtue of the resolution adopted by the Security Council on 21 February 1957 [*S/3793*]. As the Council knows, we are no. parties to this resolution. It is a resolution of the Council requesting one of its members to go out to India and Pakistan and inviting our respective Governments to co-operate with him. When this resolution was adopted, I stated before you, on behalf of the Government of India, that as far as the President of the Security Council is concerned, he is welcome in our country at any time, but his terms of reference have to be examined in a political context (*774th meeting, para. 37*). The President of the Security

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Council will always be welcome in India. The hospitality of our land and the courtesies of our Government are at his disposal.

We have carried out our promise: to the best of our ability the made the stay of Mr. Jarring in our country as comfortable as possible and we were available to him whenever he wanted us. As far as I remember, he saw us two or three times, and Pakistan officials four times. I myself had the privilege of meeting him on several occasions, and we made no proposals in regard to the problems discussed. We heard him; we answered the questions that were asked and we placed no impediments in the way of conversations with anyone in our country or of visiting any part of it, including Kashmir.

The genesis of our meeting here is the resolution and the report from the President of the Security Council [*S/3821*] containing his observations and what he considers should be his purposes in that visit as under Security Council mandate. The terms of reference to which I have referred are not matters for us, but merely a matter for the representative of Sweden who, so far as we are concerned, is the sole interpreter of the resolution of 21 February 1957. But the Government of India has said before and will repeat on every possible occasion, that the genesis of our presence here is the complaint made before the Security Council of the aggression committed by Pakistan on our territory by allowing, first, irregulars to pass over 500 miles of Pakistan territory, where international obligations in law and honour obliges them to intern them and put them into prison. What is more, we come here to seek, not adjudication but the offices of the Council under Chapter VI of the Charter in order to have this aggression vacated.

Therefore, we are here today, in the main, on the basis of our complaint, in the background of the whole of the situation from which it arises, and more immediately under the context of this resolution. My Government would not have desired to analyse or to interpret the report of the representative of Sweden, which is a report to the Security Council. It is largely a matter for them to discuss. But as it happens, my colleague the Foreign Minister of Pakistan, in his statement at

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the 791st meeting, treated the Council to what he regarded as the interpretation.

I do not propose to answer the various misinterpretations seriatim, as we see them but in the course of my approach to this document, some of our views which are different from his would naturally come forward. Perhaps it will help the Security Council if I try to indicate this morning the way in which I propose to deal with this matter and, if at all possible, finish it at this session. If I am not able to finish it this morning, I hope that I will be allowed to go over into the afternoon.

I intend, as far as I can, to deal with the report of the representative of Sweden and then to deal with the statements and allegations made against my Government and my country by the Foreign Minister of Pakistan, and afterwards to deal with situations that have arisen since the last metting of the Security Council in regard to the furtherance of the aggression by our neighbour, whom we still do not call a foreign country, and finally, to state our own position in regard to this situation.

May I say also that since the Security Council has not discussed this matter, any observations I make today cannot be regarded as final in regard even to this session of the Security Council. We would like to hear the members of the Council on the report which they have requested. We have no right to ask them to express themselves, but we can express our liking in this respect. Therefore, I reserve my position in regard to any further statements that may come from the Foreign Minister of Pakistan or from the members of the Council.

Mr. Jarring states in his report that he arrived in Karachi on 14 March 1957. Therefore, the Jarring mission began in Pakistan and not with us. Thus, when he came to India, he was presumably seized of their views. I can only say "presumably" because, as the Foreign Minister of Pakistan said, these conversations were not subject to report, they were regarded as confidential between him and the representatives

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of Governments, and I have no desire to quote any from them, though we have full records of our talks with him.

After staying in Karachi for, three days, he came over to us and spent four days in India. They were rather hot days, but we made him as comfortable as we could. He returned to Karachi after 28 March and at that time asked the Government of India—this was public—whether, if it be considered fit, he could come back again. We said the same thing: "You are always welcome". We were happy to see him back on a April. Then he went back to Pakistan and, finally, he left Karachi on 11 April. The report says that there were participants on both sides in the conversations.

Now we come to the subject matter of the report, and I refer to paragraph 6. We are grateful to Mr. Jarring for having recorded in this report that he had co-operation from the Government of India that was complete in all respects and that our conversations with him took place in an atmosphere of complete frankness and cordiality.

In those conversations, Mr. Jarring informed us that he regarded his starting point, the rails on which he was moving, to be the resolutions adopted by the Commission for India and Pakistan on 13 August 1948 and 5 January 1949. This matter is of some importance in regard to some other observations that come later. We also had the advantage not of having discussions but of meeting with Mr. Engers of the Department of Political and Security Council Affairs who, with characteristic propriety in this matter, expressed no views whatsoever and I was not able to fathom what went on in his mind. We were also glad to have the assistance of a representative of the Office of the Secretary-General. The Director of the United Nations Information Centre at New Delhi, a Cuban gentleman, was also available to make our relations more smooth.

We come now to the text of the report. Paragraph 8 refers to Pakistan. In paragraph 9, Mr. Jarring says:

> "My efforts were, therefore, from the beginning directed towards the finding of a solution for the problems that

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had arisen in connexion with these two resolutions." [*S/3821, para.* 9].

There is a reference to these two resolutions in paragrabh 8, where Mr. Jarring says :

"For his part, the representative of India declared that these two resolutions were the only ones which bound his Government.'. (*Ibid., para. 8.*)

The reference for that is the verbatim record of the 768rd meeting, paragraph 77.

I hope the Council will not think that I have been too punctilious about words because, in view of our experience of the last ten years, we cannot be too careful about words in this matter. What I repeatedly said, whatever may have been the verbatim text, is that the Government of India stood engaged by these resolutions. In that engagement, there is a commitment which has to be made initially by Pakistan. When that commitment is carried out, other commitments may arise if circumstances remain the same. Therefore, when you talk about commitments, they must be regarded as contingent commitments. I would like to read what I said on 23 January 1957 :

"The only things that bind us in regard to Kashmir so far as the Security Council and the world are concerned are these resolutions with all the conditions I have mentioned". [*763rd meeting, para. 77*].

Those last words are very important because in the several statements I made before the Security Council during the last series of meetings I took the view that in the Council's resolutions the assurances given to us by the Council on the basis of which we reached these agreements are matters binding upon the Security Council, and these resolutions cannot be read except in the context of the time and also along with the solemn assurances given on behalf of the Commission. Therefore; we have not resiled from that position. We stand

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engaged by these resolutions in the back-ground of the time and the assurances that I have given.

But no resolutions—either these or the ones that we have not accepted or anything that the Council may pass hereafter—will shift my country from the position that we are here on the basis of a complaint about aggression. We are appealing to the Security Council to do its minimum and its elementary duty in pronouncing on this matter and asking the other parties to vacate the aggression. Because under the United Nations Charter, under which we are here, there cannot be any gains for any country arising from aggression, and no claims can be based upon that.

The last time I spoke here, I referred to the fact that whatever may be the rights and wrongs of the very many aspects of this case there is one basic question: How does Pakistan come into Kashmir either physically or politically? What is the *locus standi*? Fortunately for me, in his statement, the Foreign Minister of Pakistan has a paragraph in which he refers to the *locus standi*. He says that the *locus standi* of Pakistan in Kashmir is these two resolutions. At least he limited it to that extent. If it is these two resolutions, they definitely laid down the sovereignty of the Jammu and Kashmir Government over the whole State, the right and obligation of India for the external defences and the maintenance of internal order of Jammu and Kashmir and the exclusion of Pakistan from any operation under these resolutions. The Plebiscite Administrator, even if there was a plebiscite, was to have reported to the Government of Jammu and Kashmir and the Security Council. All Pakistan had to do was to hear the results. It had no place whatsoever in this matter, as was repeated in the resolutions of the United Nations Commission for India and Pakistan ever so many times—and there cannot be any question of the violation or any infringement of the issue of sovereignty either in regard to the Government or the Union as a whole. That is paragraph 8.

We come to paragraph 9, where Mr. Jarring says: "My efforts were, therefore, from the beginning directed towards the finding of a solution for the problems that had arisen in conne-

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xion wtth these two resolutions." "The problems that had arisen in connexion with these two resolutions"—these are very carefully chosen words. Those problems are subsequent to the resolutions and, therefore, if necessary, taking all those conditions into account, they are problems that have arisen in connexion with these two resolutions. We shall deal with them, whether it is in connexion with these two resolutions, the accentuation of the aggression and not only the perpetuation of it, the annexation of territory, the rule of terror that goes on in the part of India which is under Pakistan occupation, the denial of civil or any kind of liberty there, the economic degradation the exploitation that goes on on the other side. Those are the conditions that have arisen in connexion with these two resolutions.

Then in paragraph 10, Mr. Jarring states: "...I was aware of the grave problems that might arise in connexion with and as a result of a plebiscite". Again, this is an extremely carefully worded sentence. "I was aware of the grave problems" does not say that the Government of India informed him about the grave problems. Awareness is a matter of cognition; it is not necessarily a matter of a stimulus being given to one's brain. Therefore, he speaks of his own knowledge in this matter. We have "that might arise in connexion with", that is alongside; and also "as a result of a plebiscite". I hope the Council will take these words fully into account and deal with this question not merely as a matter of whatever resolutions may have been passed but as a matter involving a big social and political problem affecting the integrity and the unity of a country of 376 million people in India and 80 million people in Pakistan, and, what is more, with all the other concomitant circumstances that go with it.

In paragraph 11 Mr. Jarring states: "I therefore felt incumbent on me to devise ways and means by which these difficulties could be met or at least be substantially mitigated." Now the last part of this is important, because there is an implication here that these difficulties may be insurmountable; otherwise, why should he say "be substantially mitigated".

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Paragraph 12 deals not only with Mr. Jarring but with my colleague from Pakistan. Mr. Jarring states here : "Consequently, I made a number of suggestions to this end to both Governments which, for different reasons, however, did not prove to be mutually acceptable." Now my colleague from Pakistan says that Pakistan accepted every suggestion and that once again we rejected everything. This is plain English. It states even as it stands—I am not going into the question of whether we accepted or rejected question—that the suggestions were not mutually acceptable; that is to say, what might have been acceptable to us was not acceptable to them and what might have been acceptable to them was not acceptable to us. Therefore, there is no responsibility or blame laid on one side in this matter. What he means to say is that his attempts at mediation met with failure because he could not find a common ground. There is nothing in this report which lays at the door of the Government of India any intractability of any kind or the rejection of everything that was said. This takes us perhaps to the crux of the present situation in paragraph 12.

I do not want any detailed analysis to take away from the general picture which we want to convey in regard to this report. The general picture that emerges from it is that the past President of the Security Council realized—and according to the report so treated the matter—that the first part—of the resolution of 13 August 1948 was the place where we stood. Though he has said that the two countries have different views, he indicates that there have been no further movements from that point. The position of the Government of India has always been that part III of the resolution is contingent on part II, and that II is contingent on part I—the whole of the resolution is contingent on all the conditions to which both countries gave adherence at that time and which Pakistan violated at the time and continues to violate now. Therefore, the report before you deals with part I, and we have no intention of travelling beyond that point. No person can come to a tribunal or to a body of this kind and ask for conciliation or equitable treatment until his hands are clean. You cannot

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demand equity when you cannot give equity. So long as part is not performed, so long as the Pakistan military potential as not been dealt with in terms of part I paragraph B and so long as the campaign of holy war, substantiated and supported by all the nice things which the Foreign Minister said about our people and our Government the other day, is not changed, part I is not performed.

In support of the position of Pakistan, Mr. Frank P. Graham has been quoted. First of all, let me say that in connexion with the reports of Mr. Graham, the position of my Government is that they were exploratory. I said so in the beginning, and I shall come back to it a bit later. But however that may be, you will find in Mr. Graham's report mention about the cease-fire part of it having been implemented. Therefore, if you read the report in its context, what it says is not that part I has been implemented, but that a cease-fire has been implemented; that is, that a part of part I has been implemented, thanks largely to the desire of the Government of India and of their people not to carry on the bloody war. Therefore, that is all that is implemented. We are today on part I of the resolution, with paragraphs B and E of part I grossly violated.

Mr. Jarring refers to our basic position on this matter. This was expressed as recently as yesterday in Tokyo by my Prime Minister. The invasion of our country is not an issue of Kashmir or of Jammu or of any other place : the invasion of our country is the issue of India : the invasion of the Union of India by Pakistan. Mr. Jarring refers to that and quite accurately transmits to the Council that we have said to him that it is incumbent on Pakistan "to vacate the aggression". That is what we told him.

However, in paragraph 14 he states : "...the Security Council had properly taken cognizance of the original Indian complaint, and that it was not for me to express myself on the question whether its resolutions on the matter had been adequate or not." This sentence has been interpreted by my colleague as though Mr. Jarring was informing the Council

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that he had told us that this aggression question had been disposed of. It is nothing of the kind. "Taking cognizance" is a well-known judicial procedure; that is to say, the Council is seized of that fact, the complaint is before it. Until this item is withdrawn from the Security Council, Pakistan still stands charged with the invasion of India. All that this says, therefore, is that cognizance of that complaint had been taken. Mr. Jarring, having limited his terms of reference to the resolutions of 13 August 1948 and 5 January 1949, did not want to go any further than the texts of those resolutions and the various provisions contained therein.

However, we go further and say that anyone who strictly and fully adheres to those resolutions would not only by implication but by logical sequence have to admit the fact of aggression. I do not want to cover the ground which I covered last time about what the resolutions say. If the members of the Security Council will refresh their memories on what has been said in the past, they will see that this resolution, if it says anything at all, accepts the sovereignty of the Jammu and Kashmir Government, not of the State, but of the Government, and also of the right and the obligation of India to defend her external frontiers and to assist the local authorities. What is more, we shall not do anything which alters this question of sovereignty, either in favour of Pakistan or of anybody else. Everywhere the reference is only to the Government of India or to the Government of Jammu and Kashmir, which has to appoint the plebiscite administrator—nobody else can appoint him. It is India which is still responsible for law and order. We alone can be called upon to arrange for the guarding of the trade routes and the garrisoning of the frontiers, which are under Pakistan occupation. Therefore, the whole of this resolution is based on the integrity of Kashmir as part of the Union, and the acceptance by implication of a violation of Union territory. Therefore, when he says it had "taken cognizance", I am entitled quite legitimately to interpret this to mean that the Security Council knows that a country has been invaded, and "that it was not for him" to sars whether the remedies which the Council has prescribed or

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the course of action which it has followed "had been adequate or not". Therefore, it is not merely a question of another interpretation: I think it is the natural interpretation of this resolution. It is an ordinary rule of law that when you have a document, you interpret it in its natural meaning. Therefore, we totally deny that this report contains anything to justify the interpretation of my colleague from Pakistan that the past President of the Security Council told the India Government that the question of ivasion had been disposed of—now they have gone further and I will come to that in a moment—and that we were the aggressors and the occupies of this territory. It reminds me of a story in my part of the world when I was a child. A burglar entered a house, and the neighbours and householders tried to catch him. He resorted to a strategem. They were all running after the burglar and the burglar joined the crowd and cried "Stop, thief". That is the way, to call the other person the aggressor, is the best way to deal with this business. I have never heard anything so fantastic. It has never been suggested in the whole course of our discussions here in the last ten years that the Government of India, its troops, its authority or the State Government of Kashmir—which is part of the federal structure of India—were there on the soil of Jammu and Kashmir by anything in the way either of aggressive or occupational action.

It has been argued that other determinations and certain ratifications will be necessary. There have been explorations in this way. In fact, the Commission says in one place that the whole of this question has been considered by the Security Council with the knowledge and with the circumstance that Indian troops were in Kashmir, and I hope that no member of the Security Council, least of all the representative of the United Kingdom, would say in view of its own past history that it was not the bounden duty of the Government of India to go to the State of Jammu and Kashmir when it was invaded, even if it had dot acceded. That has been the practice for the last 150 years, since the time of Lord Dalhousie, when that gentleman sent over what were called four regiments of Indian troops to the State of Hyderabad under a system called

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"subsidiary arrangement", which we were foolish enough to withdraw too quickly. It was laid down at that time that if any part of the Indian territory which was then ruled by the Asian Princes, were ever subject either to internal difficulties or external aggression, then the Govesnment of India would at once go to their rescue.

We have tried to avoid unnecessary legal and constitutional issues in this way. There is a difference between India and Pakistaa in relation to the Indian Independence Act. We are the successor State, the Government of India. We are the successors of "Bharat-Desha". The British authority in India was derived from the Mogul Emperor on the one hand, when it succeeded, and from acts of the British Parliament and by right of conquest on the other. We became the inheritors of the right of conquest; having brought the conquest to a termination, we took over all the obligations arising from the statutory position stated by the British Parliament and we took over all those common laws and personal rights arising both from the Diwani of Bihar, Bengal and Orissa and the successor to the Mogul Empire. We are the legitimate successor of British authority in India. We have taken over all the liabilities. We are bound by the treaties, including the treaties signed with certain sultanates of the Persian Gulf by the British Government. So if you must take the rough you must take the smooth as well. We are the successor State, and therefore, even without any accession, we had the obligation to go to the rescue of these people whose lands were being pillaged and plundered and whose women were being raped and earned off to slave markets. At that time, a report says, neither property nor young women were left to Baramula after it was sacked.

That takes us to the position that the past President of the Security Council says that he finds himself on our side, saying that part I had not been implemented, and he made this point presumably by inference. I am not starting a private conversation with Pakistan, which says it has been implemented- We have stated our case here, and what is more

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Pakistan has quoted part of the resolution of the United Nations Commission for India and Pakistan out of context, to say that it has been implemented, and also part of the resolution to suggest that the Government of India has more forces there than at the time of the cease-fire. In this connexion, the Commission made the allegation that it could not be said that either side has complied with the letter of Part I, paragraph B of the resolution of 13 August 1948. We at once took up this matter with the Commission through the Permanent Representative of India to the United Nations. We explained our position and we have heard no more about it afterwards But the rest of the Commission's report from that time onward is all about the further occupation of Pakistan and the question of the accentuation of troops. From the day since we sent that telegram, we have never heard from any organ of the Security Council about the accentuation of our troop?. I am the Defence Minister of my country, and I happen to know what troops we have there. We are far below the strength permitted even under this arrangement.

The telegram we sent to them said that the General Staff had denied categorically that the military potential of the furces had in any way been increased since the cease-fire. That was the British Commander in India there at that time. On the contrary, it had been reduced, inasmuch as all combat air craft of the Royal Indian Air Force, as it was then, had been withdrawn from the State. The Commission's view was apparently based on the allegation made on 7 July 1949 by the Headquarters of the Pakistan Army to United Nations observers. This allegation was passed on to the Headquarters of the Fifth Corps which on 15 October 1949 communicated a correct statement of the strength to United Nations observers in Headquarters. The Westen Commander also sent a copy of the statement on the same date to the Headquarters of the observer team. We would say, therefore, that so far as we are concerned this was the end of the matter. In its report, the Commission gave no evidence to show any violation of part I by India, woile there is a definite charge against Pakistan. That is contained in paragraph 225 of the Commission's third interim report.

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Therefore, to suggest that there is an equal amount of violation is entirely wrong. First of all, we cannot violate our own territory. We cannot be foreigners in our own country. If we station troops in our own land, that is not a violation of our territory. The basic mistake in this is that my colleague from Pakistan appears, after having agreed to what is *locus standi*, to proceed from the position that he has hereby some rights and that other people do not have them, or that Kashmir is a kind of no-man's land to be adjudicated upon or to be seized upon by marauders either from Pakistan or Trans-Pakistan. That is not the position. But anyway, the past President of the Security Council, with the neutrality that is built into him, said that he had heard both sides one contending that part I of the resolution had not been carried out while the other affirmed that it had. Part I, in so far as the extension of military potential is concerned—and here, when we speak about the accentuation of military potential the key day in it is 20 August 1948, the date when we accepted the resolution of 13 August 1948. We received assurances from the Commission at that time that it was on that basis, and it is all in the resolution. The key date is 20 August 1948. If there has been an accentuation of strength either since 13 August 1948, there is a violation of part I, paragraph B, of the Commission's resolution.

Thus Mr. Jarring appeared to call this a deadlock. We do not ragard this as a deafilock. When your country is invaded from outside, we do not call it a deadlock. It is an invasion. But probably the deadlock was in the process which he was following, and therefore it was suggested that—now I am dealing only with part I, paragraph B of the resolution; I had better finish the whole of that, before I come to the question of arbitration in regard to paragraph B—what we have to see is either more troops, more equipment, more political organization and more of all those things that are in excess of what existed on 20 August 1948, even which, by legal rights, should not be there. Our answer to that will come out when we deal with arbitration.

Then there is paragraph E of part I of this resolution in regard to what we call the "hatred campaign". In that

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paragraph, the parties are asked to create the condition whereby further negotiation is made possible. We have always maintained in this Council since 1949, when Mr. Gopalaswami Ayyangar argued this case after the Attorney-General of India did so, then Sir Benegal Rau and then Mrs. Pandit did so, that there has been a continuous and inveterate campaign of holy war, hatred propaganda against us, and what is more, the representatives of Pakistan on none of these occasions have refrained from uttering threats even in this Council and calling us names. But since they were our countrymen ten years ago and the majority of the people are still friends of ours, we take it as it comes.

The answer from the Foreign Minister of Pakistan is that all we were asked to do under part I, paragraph E is to make an appeal. Now surely that cannot be meant seriously. Is it meant that the Pakistan press, or the Pakistan Prime Minister, or the public security office, had to say : "Now, you should stop fighting—but do what you like" ? Is that the idea—that they only had to make an appeal ? Apart from the fact that that contention does not stand on its merits, there are many resolution of the Security Council—some of which we have not accepted—which indicate the contrary.

Thus, in operative paragraph 8 of the Security Council resolution of 30 March 1951, the Council called upon the Governments of India and Pakistan :

> "to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful settlement." [S/2017/Rev. 1.]

Therefore, the injunction of the Security Council was not merely that the Governments express a desire, but that they take active measures in this matter. And it is our contention—indeed, these are the facts—that not only have those measures not been taken but that, as I shall show in the course of the day and as I have shown before, there have been a great many

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statements by responsible persons in Pakistan, there have been military efforts and there has been psychological warfare all contrary to this injunction.

In a resolution on 10 November 1951, the Security Council also expressed its gratification with :

> "the declared agreement of the two parties to those parts of Mr. Graham's proposals which reaffirm their determination to work for a peaceful settlement (and) their will to observe the cease-fire agreement..." [S/2392.]

It is paragraph 28 of Mr. Graham's third report that has been cited as part of the evidence that Part I has been performed. And it may, on the surface of it, be taken to mean that Part I has been performed. But I would ask the Security Council to read this very carefully. This is what paragraph 28 says :

> "Part I deals with the cease-fire. The primary objective of the UNCIP during the first stage of its activities was to obtain a suspension of hostilities." That is entirely true. "The cease-fire was agreed upon between the two parties and made effective on 1 January 1949 and, as a completion of this part of the resolution"—it does not say Part I of the resolution, but the cease-fire element of the resolution, and it is made clear by the subsequent words—"a cease-fire line was agreed upon between the two Governments under the auspices of the UNCIP in the Karachi Agreement of 27 July 1949. The line was demarcated subsequently on the ground." [S/2611 and Corr. 1, para. 28.]

Mr. Graham's mention of part I is qualified by two or three phrase here. First of all, there is the reference to the Karachi Agreement. That Agreement concerned the cease-fire lines, the suspension of hostilities—not paragraphs E and B, of part I of the resolution, which are now in convention. Therefore, we say that it is very wrong to cite paragraph 28 of Mr.

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Graham's third report as evidence of performance Mr. Graham never informed us at any time that part I had been performed. It is quite true that there were exploratory conversations. We had always discussed parts I and II together. because part II could not be performed without part I. But Mr. Graham, who suceeeded the Commission, and, to all intents and purposes, was the Commission, never informed the Government of India that part I had been performed. If he had so informed the Government of India, we would have placed before him the evidence of the Commission itself, because no subsequent Commissioner can repudiate the findings of fact of the Commission without producing new evidence and convincing us. Therefore, paragraph 28 of Mr. Graham's report refers only to the silencing of the guns and we have carried that out as faithfully as we can.

Mr. Jarring has suggested that, in view of the differences that exist in regard to whether part I has or has not been performed, it might be possible to break the deadlock by submitting it to "arbitration". I use the word "arbitration" in quotes because that is a very important matter from our point of view—not only with regard to Kashmir but with regard to our whole standing in the world of a nation.

But I should like the Council to read paragraphs 17 and 18 of Mr. Jarring's report (S/3281), and see exactly what they mean. Paragraph 17 reads :

> "In substance my suggestion to the two Governments did not envisage simple arbitration"—now, is it arbitration or is it not arbitration ?—"but the arbitrator or arbitrators would also be empowered, in case they found that the implementation had been incomplete, to indicate to the parties which measures should be taken to arrive at a full implementation."

This may be arbitrament, it may be mediation, it may be an award—but it is not arbitration.

Paragraph 17 then continues :

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"It was also envisaged that in the latter case after a given time-limit the arbitrator or arbitrators would determine whether the given indications had been followed and implementation did obtain."

Therefore, on the one hand, it says that it is not simple arbitration, it does not go so far; but, on the other hand, it asks this body whoever it is—to prescribe measures, to inspect, to judge whether performance has taken place, to prescribe the time, the remedial methods, all of which goes far beyond what any arbitral tribunal can do in a case of fact-finding.

The next paragraph is the only place where I have any complaint about Mr. Jarring. He says :

"Being aware of the earlier negative attitude of the Government of India on the question of arbitration with relation to the Kashmir problem as a whole..."

Our attitude in regard to arbitration on this issue has never been negative. It is extremely positive : that this is not amenable to arbitration. And I think it is unjust, so far as we are concerned, to regard the matter in this way—and I will give you the reason why, on very good authority. (I have left one empty seat, it will be noted, between Mr. Lodge, the United States representative, and myself, because we are going to quote a good many American sources.) I repeat that our attitude on this matter has been very positive : we have not at any time agreed to arbitration on this issue. And I will give you the reasons why. It was not because of any objection to arbitration as a procedure where it was applicable.

In paragraph 18 of his report, after the words I have already quoted. Mr. Jarring goes on :

"...I made it a point to explain to it that I was not suggesting anything of that nature"—that is, anything of the nature of arbitration—"and that what I was proposing, while termed arbitration, in all likelihood would be more in the nature of a determination of certain facts which, in the Indian view, were incontrovertible."

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I respectfully suggest that there is some difficulty about reconciling paragraphs 17 and 18 because, while paragraph 17 says that there should not be "simple arbitration", it says that the fact-finder should find out the facts and find out why implementation has not taken place, prescribe a time to start the procedures, and give an award. That is what paragraph 17 says. It goes further than arbitration. Paragraph 18 pulls it back and says : Not so much arbitration let some body go and find out whether it is true or not. Therefore, there is a slight contradiction, arising from the general complexities of this case, which itself shows that this matter cannot be referred to arbitration. Even the terms of reference cannot be put down.

Paragraph 18 of Mr. Jarrings report continues:

> "In addition, the procedure suggested might lead to a improvement in India-Pakistan relations in general, a development which I assumed could not be unwelcome to either of the two countries".

The latter part of that sentence is correct as far as we are concerned, but the first part must be judged by the facts.

It is said that this arbitration proposal was put to us when Mr. Jarring came to India—well, perhaps I should not go into that—obviously it was put to us, on the face of it, after consultation with Pakistan, and from the very beginning we had explained our position in regard to this: there was no question of our agreeing to arbitration on this issue. And the reasons have been set out. In paragraph 19, Mr. Jarring says that the Government of India felt that :

> "...the issues in dispute were not suitable for arbitration, because such procedure would be inconsistent with the sovereignty of Jammu and Kashmir and rights and obligations of the Union of India in respect of this territory".

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May I halt here and deal with this question of arbitration in full ? One arbitrates normally on things that are not obvious; one docs not arbitrate on the obvious. It was obvious to anybody who came to India at that time and stayed for three weeks that there was a campaign of hatred going on against us. But why go to India ? The speech of the Foreign Minister of Pakistan, at the very meeting from which this resolution arose, was full of threats of violence, of threats of invasion, of what would befall us from the tribal people, and things of that character. There can be no doubt, then, with regard to the hatred propaganda that has been going on. What is more, while during the last ten years we have cited facts and made complaints about this at every meeting, Pakistan has made no complaints about our carrying on psychological warfare against them. It might be said to their credit that in this matter they have stuck to the facts. The first point, therefore, is that one does not arbitrate on the obvious.

I come now to the second point. Mr. Gunnar Jarring has told us, quite rightly, that he proceeded in this matter on the basis of the resolutions, which are the common ground. Now, the resolutions of 13 August 1948 and 5 January 1949 lay down specific machinery for the determination of the facts. The Commission, under these resolutions, must report to the parties whether or not implementation has taken place. Therefore, if the Government of India had agreed to any other machinery—arbitration, mediation, good offices, a prayer meeting, or anything else—that would have meant going outside the terms of the resolutions. The Government of India had no intention of committing itself any further on any of these matters, beyond the commitments already undertaken. What we were asked to do was to accept a procedure which was outside the terms of the resolutions.

It is a rule of international law that when there is a specific agreement with regard to the resolving of disputes, on any other issue, between countries, then general international law cannot be applied. Pakistan is a party to that rule, just as the United Kingdom, France and other countries are parties.

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There has been a declaration to the effect that when there is a specific agreement with regard to the way in which a particular problem shall be dealt with, a general rule of law cannot be invoked.

That is the second reason why we would not wish to go beyond the confines of these two resolutions. They provide the machinery—and, what is more, that machinery has performed its function; in various reports, the Commission for India and Pakistan has pointed out, as I shall show in a moment, that there has been an increase of potential, that the necessary atmosphere does not prevail, and so forth. Thus, the Commission has already made findings on this matter. Our submission is that these facts are self-evident, from the written word of the Commission, from the facts that obtain in India, from statements made here in the Security Council, from the record of the entire Pakistan Press, and from declarations made by Pakistan officials in positions of responsibility.

I now turn to the position of countries in the United Nations with regard to arbitration. Mr. Jarring has said that arbitration might lead to an improvement in India-Pakistan relations. But we have tried arbitration on various matters and our experience has been that we are pushed from pillar to post and we get nowhere. We make a concession, but that is regarded as only a jumping-off ground for further concessions. I might say here that all the very good civil servants we train in India are available for this purpose.

The fourth reason why we could not accept arbitration is the reason of principle. In this connexion, may I say with great respect to the United Kingdom representative that my Government does not accept the view on arbitration expressed by a gentleman named Henry John Temple—later the third Viscount Palmerston—who was Secretary of State in 1846. His views on arbitration are very refreshingl but we do not adopt them; he lived in the days of rough and ready methods. This is what is said in this respect :

> "Even with control of the choice of arbitrators, a British Foreign Secretary was found to observe in Parliament in

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1849 that arbitration was a very dangerous course for his country to take, in view of the envy and jealousy of British possessions and commerce, which would make it very difficult to discover really disinterested and impartial arbiters".

Now, I have said that I do not accept this position: I think that there are people in the world who can be enlisted for arbitration purposes, and this must have been true in that time as well. I do, however, take the view which, as recently as 1948, the United States took in what is called the inter-handel Case. This was a case between the Swiss Government and the United States Government in respect of a company registered in Baltimore. There were articles of registration, and so forth. On the face of it, the Swiss had a good case for arbitration, but the United States Government stood solidly on the ground that arbitration was not permissible because the matter concerned the honour and integrity of the United States and nothing concerning the honour and integrity of the United States was capable of arbitration. In addition, certain legal principles and principles of international behaviour were brought out in that case. The United States also put forward the view that, apart from the question of honour and integrity, no State could, without its consent, be compelled to submit its disputes with other States to mediation, arbitration or any other kind of specific settlement.

Furthermore, the United States said that its vital interests were involved in the case, and anything concerning a State's vital interests was not subject to arbitration. Now, when we examine this matter of vital interests, we again come to an American authority the great international lawyer, Professor Hyde. This is what Professor Hyde says :

> "Vital interests are a term of diplomacy: they are not a term of law. Laws know no vital interests: they know only legal interests. The term 'vital interests', however current in diplomacy, has no special signification in law. Doubtless its use in arbitration conventions is for the purpose of excluding generally from their operation

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controversies involving matters of grave national concern"—and what can be graver for us than the integrity of our country and its violation by a neighbour?—"Those of seemingly political aspect, regardless of whether they are really susceptible to adjustment by arbitration by reason of their inherent character, are likely to be regarded as of such a kind."

There is another instance where the United States Government was involved with the Government of Colombia, but, while the argument may be in my favour, I do not wish to qnote that case.

In the Interhandel case, the United States summarized its position as follows :

"If the subject matter of the dispute is very clear and not at all obscure"—and that is certainly the case in the present situation"—and the views of the Government concerned are conveyed fully to that effect, resort to conciliation would be unproductive".

There are various other reasons why arbitration would not be permissible in the present matter. Once we entered on this field, we would be allowing the sovereignty of our country to be determined by arbitrators—who knew very little about it and what is more, would be arbitrating on a matter which was not arbitrable. That takes me to the basic position on arbitration.

Under an international practice which has been subscribed to by many countries represented here—such as the United States, Australia, Sweden and France—and by many other countries not represented here, such as Norway, only juridical questions can be subjected to arbitration. In view of the provisions concerning the implementation of parts I and II of the resolution adopted by the Commission for India and Pakistan on 13 August 1948, the submission of the question to arbitration could not by custom be agreed to by a State. That is the main point, and I have raised it before. Now, what Mr. Jarring

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suggests in paragraph 17 of his report is arbitration, the appointment of an arbitrator—although, under paragraph 18 the arbitrator is called only a fact-finder. A time limit is eveu established for the arbitration. There is no case in the whole gamut of international law—and I have carefully looked into this question—where a matter so wide and so intimately connected with a country's integrity, a matter involving so much complexity, has been subjected to arbitration.

I think the definition of this is well set out in the General Treaty of Inter-American Arbitration (1929). It definitely lays down what is clear to everybody, that arbitration is merely a process of judicial settlement. The difference between arbitration and court procedure is that the procedure of arbitration is less formal. Only a justiciable or juridical matter can be subject to arbitration, as was stated in the Treaty arbitration 1929. The same thing came out in the proceedings of The Hague Conventions in 1899 and 1907 when, speaking about international arbitration, it was stated :

> "A method of solving international conflicts by the application of the rule of law—a veritable judicial institution between States—arbitration is a juridical instrument of peace and progress since it gives an effective sanction to the existing law and by the establishment of jurisprudence contributes to the formulation of the law of the future."

I read this out because arbitration is possible only if there are rules. If it is a judiciable matter, then rules are laid down and only then can one arbitrate; otherwise it would be a gamble, it would not be arbitration. If the Council should decide to discuss this matter further, it is the intention of my Government to present the full case on arbitration. Just because it sounds nice and a party concerned, for very good, sound and historical reasons, refuses to go into it, it should not be regarded as taking a *non possumus* or an uncooperative attitude. It goes against the whole conception of the rule of law and all the principles of international law.

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What is more, it sets this question out of its context. We came here under Chapter VI of the United Nations Charter. We did not come here to ask the Security Council to decide who has the title to Kashmir. The Security Council is not competent under the Charter to judge any legal or political question. We came here for conciliation in order to get an aggression vacated. The Security Council is not seized of this matter under any other section of the Charter, and no other section provides for the adjudication of a territory or for a decision on legal questions. Therefore, since it concerns our sovereignty, our honour, our integrity, our vital interests and our having to go beyond commitments which we have already undertaken, a course which, in our experience of the other party concerned, would not lead anywhere, and, what is more, since it merely draws a red herring across the whole of this business, creates unsettlement in a country for no reason, we could not, much as we would have liked to, accept what Mr. Jarring said. We could not accept it and we regarded the matter as closed. That is our position, because it is fundamental to arbitration that the two sides must agree. If one side does not agree, there cannot be arbitration.

This is not the first time this has been brought up. The question of arbitration has come before the Security Council time after time since 1950. The Commission tried it, and various other people have tried it, and we gave the same answers every time. That is our position with regard to arbitration.

That concludes for the present, unless a new matter should be raised, our observations regarding the Jarring report, except to refer to paragraph 20 to 22, in which Mr. Jarring, not after any probing from us, but naturally after looking at the situation in the light of the proceedings of the Security Council, stated :

> "In dealing with the problem under discussion as extensively as I have during the period just ended, I could not fail to take note of the concern expressed in connexion with the changing political, economic and strategic factors surrounding the whole of the Kashmir

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question, together with changing pattern of power relations in West and South Asia". (*S/3821, para. 20.*)

It is not the intention of my Government to drag in other international approaches and questions in this matter so as to create more difficulties, but the paragraph is pregnant with meaning, and that is one of the main parts of the argument we have presented to the Security Council on previous occasions. While we did not argue that part of it too much at the time, it is quite apparent that there have been changed conditions, and while it is not necessary to quote legal doctrines in this matter; the doctrine of law that makes all obligations, even treaty obligations, dependent upon changed conditions has held good ever since the time of the ancient international mores when mariners sailing the seas had no written law, but only custom. Changed conditions are always taken into account.

Paragraph 21 relates to the large number of instances I gave to the Security Council at the last series of meetings; remedies of this kind had been proposed, but in only one case did they succeed, a rather regrettable case because the time had lapsed.

We are happy that Mr. Jarring's report, so far as we are concerned—that is all I can speak about—states that we have been co-operative and that we have always told him that we are open to settle any matter peacefully and by negotiation. But the sovereignty and the unity of a country, its integrity, its security under present conditions are not matters that are arguable. With the reservation that I made some time ago, namely, that we can return to this matter if, as a result of the Council's discussions, any further issues should arise, or if we have in any way misinterpreted Mr. Jarring—which we may have done—we are open to conviction.

Now I come to the second part of the statement I wished to make. I had hoped that I would be able to finish at this meeting, but I shall not be able to. The second part of my presentation today deals, much to my sadness, with the allegations and the mistatements by my colleague from Pakistan. I

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want to assure you, Mr. President, that I do not intend to use the same kind of phraseology. It is not usually expected at this table that two countries, in diplomatic relationship with each other, sister States of the Commonwealth, and where, ten years ago, the citizens were citizens of the same country, would accuse each other of bad faith and dishonesty, of *mala fide* intentions and, what is more, of point-blank dishonesty. That is not our record with Pakistan and I think that in their private minds they know it.

We deeply regret this matter because I have read in the Indian newspapers of the amount of disappointment felt in some quarters, the amount of ill feeling that Mr. Noon's phraseology has created in India, and it has been a matter of great sorrow to us because we do not want, even in Kashmir, to aggravate the difficulties. We have to live together on the same continent.

The first obvious statement of bad faith was that the Government of India in its so-called tactics, from the time Commission was appointed, has been dominated by one idea, that is the avoidance of a plebiscite. The Foreign Minister of Pakistan himself states that until 1953, when we were discussing mathematics and when we were going into all these explorations of various kinds, there was no impediment to a plebiscite except the determination of the quantum of forces; that is to say, that we were at that time, provided that the conditions were satisfied, prepared to go on with it. Therefore, whatever will do in the interests of our country, in the interests of truth and the pursuance of these resolutions, should not be interrpeted as an exhibition of bad faith. If we wanted to avoid a plebiscite under the terms that have been referred to, it would not be necessary for us to go roundabout in that way. After all, a country that is a sovereign State can perform certain actions or not, and it is not necessary to put all the members of the Security Council to all this trouble for that simple process. All through the years we have had many conferences and we have many concessions. What is more, when the resolution of 13 August 1948 was passed, there was no question of there being any

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quantum of troops remaining in the territory now occupied by Pakistan. The whole place was to be vacated.

We were told the following :

"The rejection of this suggestion for arbitration, not on the future of Kashmir, but even on the limited question of the past or present fulfilment of an existing agreement, clearly exposes India's bad faith." (*791st meeting, para. 40.*)

I think it was Lord Acton who said : "The thought of man is not triable, nor are motives of nations", I very deeply regret that there should have been, in the presence of all of you, without any protest whatsoever, this accusation of the bad faith of a country which, to the best of its ability, tries to discharge its international obligations in spite of very grave responsibilities.

The statement goes on :

"When I compare these professed adherences to the international agreements with the practical and continued defiance of these agreements by a responsible Government, I am left astonned." [*Ibid., para 42.*]

There again, I have no desire to enter into rhetorical repartee against another State, which can only create irritation and nothing else. The Government of India stands by its record carries out its international obligations and, what is more, carries more international burdens than a good many other countries. Therefore, there is nothing here that we have defied. The defiance is on the part of Pakistan, and if it were defiance alone, it would not be so bad, but the deliance has arisen from concealment. And I say that no country which has concealed facts, which has misled the Security Council, which is guilty of improper mistatements, has the right to ask for remedies. Because where does this all begin from ? We came here and said that we were

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invaded. And the answer was: "We are not there". The Commission says that in June or so the Pakistan Foreign Minister said: "We have sent some troops over there in order to protect our Eastern borders and to prevent them from coming to the Punjab area"—and that is the first time they heard about it.

But the troops were there, before the Commission was appointed. The troops were there, when the complaint was here. The troops were there, when the Pakistan Foreign Minister or other representative denied they were there. On the one hand, we have the statement of the position taken up, that they are there by right, and the other statement that they were not there. Here is a country which has concealed facts in that way, and the whole of the case has been vitiated by concealment. In the first instance there has been the admission of agression or a claim that they have the right to go there. There was no claim by Pakistan that they had a right to go there with their armies. I believe that Mr. Jinnah at one time ordered the British Commander-in-Chief to wage war against us. The latter had more common sense than to do it.

Then there is another statement which we deeply regret:

> "The people of Kashmir are being cheated of the fruits of freedom promised to them by the Security Council, through India being continuously allowed to dishonour its agreements," (*79st meeting, para. 46.*)

Who is cheated of the fruits of freedom? There have been two elections in Kashmir, the last one only a few moths ago. It is easy enough, without any facts, to speak of a police state, of rigged elections and what not. These elections are conducted in India under rules and conditions which would do honour to any country.

What are the facts? In the State of Jammu and Kashmir, there are two provinces. In Jammu there are thirty

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seats and in Kashmir there are forty-five seats. Out of the seventy-five seats, thirty-two seats were contested. Out of the contested seats, twenty-eight were won. The number of uncontested seats was forty-three. For rwenty-one seats no other party candidates came forward. The candidates of All Jammu and Kashmir National Conference has nursed their constituencies for years, and nobody else had a ghost of a chance. In ten constituencies the opposition withdrew. No constituencies the opposition withdrew. No constitutional party can put up a puppet opposition and say "you fight me", like a shadow boxer. In twelve cases the nomination papers were rejected by the Election Commissioners mostly because people were under age or did not come under the constitutional procedures that were necessary.

But it is not sufficient to say that they were contested. Although the National Conference won twenty-eight or thirty-two seats, they had to fight very hard for it. I do not want to weary the Council with the figures, but I have them here. The polling figures show that they were very narrow victories. There were very hard contested battles and, what is more, where there was any dispute about any legal procedures in this matter, it went before an election tribunal. There were these contests and a number of opposition parties, and a free Press in Kashmir; what is more, last year 70,000 visitors went into Kashmir, of whom 7,00 were non-Indians. You cannot shut a country like that.

Therefore, it is not a question of our denying any freedom to anybody. Freedom is denied on the other side, where there are no elections, where there is no freedom, where there is no free Press, and where a large number of people are in prison. We have twenty-three people under detention in Kashmir today under the security laws. They are being released fast and I hope that all of them will be released soon. We have made no secret of it and it is largely because of reasons of security of the State. But there is no police rule in our part of the world, while in Pakistan as a whole there have been no general elections, and in Pakistan-occupied Kashmir and there is no freedom of expression of any kind.

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Who is preventing these people from having elections ? They have place in the Parliament of Jammu and Kashmir, the Government of which is the only sovereign body recognized by the Security Council. But they are not able to fight for those seats because they are held down under occupation. Therefore, the real suppression does not come from us, but it comes from the other side. We are not cheating them of the fruits of freedom. The fruits of freedom can be seen in the part of Kashmir where it is possible for a free Government to function and to have the benefits of the larger organization of the Union of India by the development of the five-year plan, by greater supply of food and of irrigation, by advancement of education, by the building of universities and schools and colleges, and by people enlisting in social service in a large way. There is no unemployment in our part of that State, and therefore fruits of freedom are quite apparent to any visitor that goes to Kashmir.

But on the other hand, in "Azad', Kashmir during the last three years, fifteen newspapers have been suppressed; the entry of some others has been banned; police censorship is imposed. No charges are levelled; no cases are launched in court and no sections of any Act, emergency or ordinary, substantiate any action. Had such a thing happened in Pakistan, these orders could have been challenged in a court of law. But it has not been possible in so-called "Azad" Kashmir. For this purpose "Azad" Kashmir is not part of Pakistan. There is no legislative assembly in "Azad" Kashmir; no one can criticize the Government; there have been various changes and whenever the puppet administrator is not suitable, he gets pushed out and another man is brought in.

There are a large number of statements by people who are responsible men and who have held responsible positions in "Azad" Kashmir. Some of them have now escaped to India under conditions of terror; two of them because they dared to speak to two members of the British Parliament who are avowedly pro-Pakistan. They still spoke the truth when they came over to India and after some time we allowed them to stay

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there. I will not beary the Council with all the statements. We have not deprived anybody of any freedom.

Now we come to the substance of the matter, and that is with regard to the present position. There is another serious charge that is made and that is with regard to a military adventure. The impression is sought to be presented that we are a country which is arming against Pakistan. We could not arm against Pakistan if we wished, because Pakistan is part of big military alliances. There is no such sentiment in India, and the Indian Parliament would not agree to large scale military adventure. It keeps its army more or less in good condition.

But we are told that the defense expenditure of India is over 140 per cent of Pakistan's expenditure (791st meeting, para. 45). Fortunately, the United Nations publishes these figures. The Pakistan budget in 1957-58, capital expenditure and current expenditure, comes to 3,500 million. Pakistan rupees, which comes to about $700 million. Pakistan defence expenditure is 1,120 millions rupees, or $221 million. That is from the Pakistan budget itself. Add to that the United States aid. The United States aid, as spoken of by Pakistan, is 40 per cent of the Pakistan budget.

Accepting that as a statement, the total would come to very much more than the defence expenditure of India. The expenditure of India for this year's defence budget, which is higher than last year's on account of replenishments, is 2,520 million rupees or $504 million. Our defence expenditure is 38 per cent of our national budget, if you do not include the railway budget of India. But if you do include the railway budget of India, it is 29 per cent. The railway budget is 10 per cent of the national expenditure, taking the State of Jammu and Kashmir as well.

So for a country which is five times the size of Pakistan with a population nearly five times that of Pakistan, we have an army which is relatively very much smaller than that of Pakistan. Our defence expenditure is not comparable to that of Pakistan. The latest figures I saw show that United States

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military aid from January to June of 1956 came to $97 million. Anyway, there is Pakistan's statement that it amounts to 40 per cent of their buget. If those figures are to be taken, then we get a figure which is very much higher.

Therefore the aggregate military expendure, in addition to what goes in kind, which cannot always be calculated in the case of military aid, is considerably higher than that of India. Now, it is not the function of the Security Council—it may not be even of the Disarmament Commission—to go into the question of the relative armaments of these countries except in so far as it bears on this proposition : Are we preparing for war or are we a threat to anybody ? A large corpus like the body of India, with a small army, with means of communication being what they are and with our considerable preoccupation with our countryside—that is our main interest, not international or military affairs—does not find it possible to do this.

That takes us to the question of part I, paragraph B, of the resolution of 13 August 1948. I have argued that paragraph B has not been honoured by Pakistan. I would like the Security Council to be seized of the problem, as it is part of the Council records.

When the Commission passed these resolutions and afterwards talked to us about them, it was not aware of the strength of the "Azad" Kashmir forces. It was not aware of the ',Azad" Kashmir armies. The Commission assured us that there could be no recognition of the "Azad" Kashmir Government. They were to be called local authorities. There were not to be armed bands of any kind in the territory evacuated by Pakistan. At the time the resolution was passed, Pakistan denied that these vast armies existed. The Commission said that, if it had known that these "Azad" Kashmir armies existed, it would have taken a different view in the matter. Indeed, the Commission goes on to say :

> "There is, indeed, no doubt that the "Azad" forces now have a strength which changes the military situation and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange

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within a stucture which considers only the regular forces of two armies."

Any idea that those "Azad" forces are just boy scouts in uniform or something like that is a great mistake. They rank with the front-line forces of the Pakistan army. Thanks to foreign aid, they are able to displace a considerable amount of former British equipment.

These "Azad" forces, which formerly consisted of thirty-five battalions and are now streamlined to twenty battalions. I have all the details of them here—have artillery, tanks and armoured regiments of various kinds. They are really first-class troops. They have had compliments paid to them by the Prime Minister of Pakistan himself. The streamlining of the thirty-five "Azad" battalions to twenty battalions was only a matter of division, not a contradiction of the aggregate force. These forces are a violation of the resolution : that is to say, the resolution was passed in the context that the territory of India had been invaded and the Pakistan forces had to withdraw. It definitely says here that by Pakistan forces is meant not only the army, but forces regular and irregular, Pakistan nationals of all kinds. That is with regard to "Azad" Kashmir.

The Security Council has heard a great deal about "Azad" Kashmir, which is near the Punjab area of Kashmir. It is well populated. But there is another part of Kashmir which is under Pakistan occupation. It is roughly called the northern areas. Here new airfields and new roads are being built and all the panoply of military preparations takes place.

This matter was raised by Mr. Logano, the Chairman of the Commission. At that time, the view of the Commission was that Pakistan had no hold on this area at all. It had no troops. Therefore, not having any, they said this matter could be discussed afterwards. But the question of the sovereignty of India in regard to those places was not challenged at all.

At that time, Pakistan had no armies in the Northern areas, either in Gilgit or in Baltistan. Now, in all the north-

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western areas, including Chitral, there are the Northern troops, the Gilgit Scouts, the irregulars of various kinds, and this place is terribly well armed.

There is no constitutional or legal reason of any kind for this part of the territory to be the territory of Pakistan. In regard to "Azad" Kashmir, the Foreign Minister has stated that it does not come under section 203 of the Pakistan Constitution (*791st meeting para. 59*). Well, this is not a court of law, otherwise I could argue the other way. But so far as the northern areas are concerned, there has been no denial. What is more, Sir Owen Dixon, who in no way can be considered as biased in favour of India, said that in this place the whole administration was appointed by Pakistan, and there is no question of it being anything different.

Therefore, contrary to all undertakings behind the back of the Security Council, and disregarding every consideration of honesty and international law, Pakistan raised these troops, annexed these territories and, we are sorry to say, accepted accession from a local commander who was not a Kashmiri or an Indian of any kind, but who was in charge of the Gilgit Scouts. He was a military adventurer who made haste to offer accession. That accession is no accession, because Gilgit is not a State. The only State is Jammu and Kashmir.

So in all these Pakistan occupied areas today there are vast numbers of troops and all the military accoutrements of airfields. It is no answer to say that it was intended to take the quotas off, because even with the quotas off, the airfilds were not permitted, and all that was to exist were local authorities and nothing else. Therefore, in regard to the increase of military potential, we not only say, but we state as a matter of fact that the enormous military potential that exists in "Azad" Kashmir is a threat not only to the part of Kashmir which we still are able to administer, but to the whole of India. These are our frontiers, and we are in no way disposed to trifle with this matter. There are these twenty battalions. equipped with the most modern weapons, including the latest of the anti-tank weapons that have been supplied to

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the Pakistan army. I do not want to go into the details because I have no desire to complicate this matter.

In dealing with this military business, I would assure the representative of the United States that the Government of India accepts the statement of the United States that the military aid given to Pakistan is not for the purpose of hostile action towards India and is unconnected with Indo-Pakistan relations. We fully accept that so far as the donor is concerned. But so far as the donee is concerned, we cannot accept it because of a large number of statements by the present Pakistan Prime Minister, the previous Prime Minister and other statesmen which definitely and categorically say that the membership of Pakistan in the Baghdad Pact, the military arrangements, the aid promised by Turkey as against India and the relations between Iraq, Turkey and Pakistan are all intended to deal with India. This is what a former Prime Minister, Chaudri Mohammed Ali, said :

> "The hope of resolving the Kashmir tangle to Pakistan's satisfaction through the acquisition of military strength by joining the Baghdad Pact and SEATO is the very *raison detre* for Pakistan to remain a member of these Pacts"

So there is no ambiguity about it. This is in no way to impugn the motives of the other parties to the Pact, but after all, when there is a contract, there are two parties and there really should be a common intention, even if each party goes in for a different reason.

The present Prime Minister of Pakistan said in December 1956 that Pakistan.

> "Will continue to seek alliances, military or otherwise, so long as there is a remote danger from India to the country's safety and territorial integrity."

And that to a country which for years has asked them to outlaw war as a means of settling disputes between us and,

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what is more, stopped its victorious army on the cease-fire line at the behest of the United Nations Commission for India and Pakistan in order to stop bloodshed. These are the people whose motives are regarded as *mala fides*.

Defending the Baghdad Pact, the Pakistan Prime Minister said :

> "Even if there is a 5 per cent chance of attack from India, I must be strong enough to see that chance should be a zero chance."

There is no objection to Pakistan defending itself against India or against the moon; but here is a suggestion, here in fact is a definite statement, that the purpose of involvement in these defensive pacts is not what was proposed by the other parties—whether that right or wrong—but is really aimed at India.

This year the Prime Minister said :

> "Have you ever had such a forthright statement on Kashmir as was issued by the Prime Minister of Turkey? Have you ever before in the whole course of the dispute had so many friends behind you as you now have in Turkey, Iraq and Iran?"

With all respect to the Security Council, this is a reaction to the comparatively soft attitude which the Security Council takes towards aggression and threats to the peace in that part of the world and towards the stimulation of aggression. It gives the feeling that behind the aggressors is a large volume of international opinion.

Addressing a public meeting on 3 March 1957, the Prime Minister again :

> "The Baghdad Pact is a defensive alliance which has for its members Pakistan, Iran, Iraq, Turkey and Britain,

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which is the real strength behind it." Very embarrssing for the United Kingdom.

"Under the terms of that alliance other members will be bound to help Pakistan."

The people understood him very well.

Then their Foreign Minister, speaking to the National Assembly on 26 March 1956 said :

"The most notable achievement of SEATO is the joint reaffirmation by the members of our stand on Kashmir."

We had at that time made our views known to other members of SEATO and even in terms of the SEATO establishment there is nothing to do with the internal affairs of India or the aggression on Indian territory, because we are not part of those defensive pacts and we have not accepted them. This statement about a reaffirmation by the members at the meeting in Bangkok was put in. I suppose, to get an agreed resolution. They made some reference to Kashmir and capitalized upon it in this way.

All these statements I have quoted have two meanings. One is to show that the intention of Pakistan is quite clear and the other is to involve other people. The present Pakistan Prime Minister made a speech of thanks and gratitude to the United Kingdom for all the assistance he had received against India, thinking that in that way he would create bad blood. Blood costs more than that.

Now we come to our distinguished friend opposite who tells us that there was only one country in the world inimical to Pakistan on account of its intransigent policy in Kashmir. This is said by a son of former India. "We should not forget the inimical attitude of our neighbouring country and we must find friends who will help us in the hour of aggression." That is to say, it is not a question of defending themselves, it is a question of getting other people to join their side. His speech

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was all against aggression, but we are not comming aggression —the aggression is upon us, and what is more we have asked for an agreement to abandon war altogether.

Mr. Khan Noon went on to say in October 1956 that "a powerful neighbouring country inimical to Pakistan has in fact forced us to seek friendships elsewhere". Therefore, if the United States or France thinks that Pakistan joined the Baghdad Pact or SEATO for some other reason, here is the reason. That is the reason, they did not go in to assist in whatever the cause was, right or wrong, but in order to work against us—"has in fact forced us to seek friends elsewhere". The "two Pacts have enabled Pakistan to ensure its defences against aggression".

A further statement was "Our first duty is to strengthen our defences, particularly against India, no matter what others might say". There has been no question of India violating the international frontier between Pakistan and India; in fact we have no troops on the international frontier. There are a few armed policemen who are normally able to deal with such incidents, but there have been one or two cases where Pakistan tried to put military strengrh into our country and has suffered considerable losses. We are not spoiling for war; as I said our main preoccupation is our countryside. Again, "Pakistan will not agree to commit suicide by getting out of the Baghdad Pact, which is our defense against India." The real foundation of the Baghdad Pact is revealed there for you.

Then comes the Pakistan Minister in Syria and I must say in fairness that he was repudiated by his Foreign Office—who said, "Pakistan will fight to rescue Kashmir when Pakistan has completed the building up of her strength". This is the kind of thing that is said in pursuance of Part I, paragraph E of the resolution of 13 August 1948.

Another senior official of the Pakistan Government who spoke in September of the same year, said "This country joined the Baghdad Alliance only because of the Kashmir dispute with India".

There are some interesting United States views on this

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subject—although I usually hate quoting Press reports in this matter; they have become a commonplace here. An American from Chicago who was in Kashmir some time ago said :

> "Pakistan is taking the United States for a ride. This is evident from your report and from my observation in that country where I worked until recently. Pakistan thinks it did us a favour by joining SEATO and the Baghdad Pact. They do not worry about the danger of Russian aggression. Pakistani leaders merely humour our concern about Communist expansion in order to get economic and military Pakistan and to strenghthen their hand against India."

Another American, Mr. Steele, of the *New Yark Herald Tribune*, said that Pakistan hostility is towards India rather than towards the Soviet Union. In fact the Foreign Minister of Pakistan, I am glad to say, has repeatedly said that they enjoy relations with the Soviet Union—and we are happy they do—but his hostility is towards India and in the event of a showdown with India, American military supplies will be drawn upon.

"Pakistan is trying to use the Baghdad Past as a trump card in its dispute with India", says *Ulus*, a Turkish newspaper Pakistan has no dispute with India, it has only committed aggression, has no dispute.

The *Economist* of London, a paper which is hardly favourable to India at all, says "Mr. Suhrawardy, who feels that he now has the initiative over Kashmir"—he may feel it—"can only be greatly glad that Britain is functioning again in the Baghdad Pact, the membership of which endows Pakistan with a bargaining power which it would not otherwise have". There are those who try to argue that these pacts come under Article 51 of the Charter, and I make them a present of this. There are similar observations by journalists and authors from New Zealand and Australia who have been on the spot and who are no way biassed in our favour. We have no machinery in Kashmir for spepherding journalists about; in fact, they

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complain we do not look after them well enough. But if we look after them, someone will say we are conditioning them. All we do is to give them a permit to go there, and we give it to everybody who asks.

Another statement of the Pakistan Prime Minister is this "The people may rest assured that our soldiers are prepared to go to any extreme"—it is not only soldiers, as I shall show this afternoon—"to go to any extreme to see that the people of Kashmir are liberated. Our cause in Kashmir is so just that one soldier from our side will be able to stand against ten from the enemy's side." There is no harm in the Prime Minister indulging in bluff, but this seems to be a statement of policy.

There was another announcement : "Kashmir is a matter of life or death for Pakistan", and many people would deny they have committed aggression. "We must have Kashmir, or we die." In May 1957, he said at Bangkok : "Kashmir is and must be part of Pakistan, and that will be the ultimate result'. They did not say that when they cause before the Security Council.

A great deal of play has been made with the fact that the accession of Kashmir to the Union of India under the arrangements with the United Kingdom to which we and Pakistan are parties is being recognized under international law, although Pakistan was not recognized this accession. It does not require Pakistan's recognition. The accession is complete when it is made by the Head of the State. That is where we get all the play on self-determination which I shall deal with later on.

Then come the threats, veiled ones, from the present Foreign Minister.

> "There is a general clamour among the Kashmir refugees to launch a peace movement aimed at crossing the cease-fire line and starting a mass movement inside the State with a view to winning for the Kashmiris the right to self-determination...".

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"These tribesmen have shown remarkable patience but the cup is now full··· It is no longer possible to feed them on mere promises."

That is quite true; you must take some action, in order to keep things quiet.

"India has chosen a path which was contrary to peace and happiness and likely to lead to war between the two countries."—We have not said this at any time.—"Pakistan does not want that there should be any upheaval in Kashmir; otherwise it would be very easy to create one there."

There is a geatleman in this Kashmir picture by the name of Tariq, who promoted himself to the rank of General in the Pakistan army. He was a kind of out-of-uniform General who conducted the invasion at the begining. Our people know him —they were members of the same army and they talked to each other. He is well educated and speaks with an accent. However he got into trouble. He was convicted and sentenced for treason, or whatever it may have been. He has now come out and has become a great political leader. He has been putting out political manifestos. I have no intention of circulating them, because I am not going to do his propaganda. The idea is that there should be infiltration into India, that there should be sabotage and destruction, to which I shall refer later. Political parties are formed, and the Pakistan Government is not to prevent them from going and doing what they want. Then comes the best part of it. "We must force India's hand, so we can tell the world she has committed aggression". That is to say, our country has only soldiers in uniform: we have no "irregulars"—if we have to resist anything we must resist it with our armed forces and, therefore, it can be said that the aggression began from our side.

We are quite aware of this fact and we are proceeding with extreme reticence and patience in this matter. But the responsibility for preventing further aggression, even apart

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from the legitimate rights which we might have of liquidating the previous aggression, is one that lies heavily upon us, both nationally and internally. The whole tactic at the present time is to put forward these ex-generals, civil servents off duty and others in order to promote a nefarious revolution. But that will not happen is our part of the world, because it will receive very little assistance from the population. They will get some stooge of some kind, and the poor devil will get paid heavily for it.

Incidentally, the Pakistan Foreign Minister may be interested to know that the Government of India has some of his money. We intercepted it in passage, and we propose to keep it.

Apart from a handful here and there, there is no mass support for anything of this kind, and we do not intend to retaliate in the same way. We have no intention of starting *maquis* movements in the occupied areas. We believe the people in the Pakistan occupied areas themselves will throw off the yoke, assisted by the good offices of the Security Council, on which lies the heavy responsibility of liquidating the aggression. That is the issue. Is anybody to capitalize on aggression? Whatever may be our sins, the sin of aggression is much greater than anything else; No country in the world is safe, if this body does nothing. My friend always says that we must look at facts. What are the facts? The facts resulting from aggression are facts which must not merely be looked at; they must be removed. That is our position.

Then we are told about the relative strength. There has been an increase in military potential in Pakistan-occupied Kashmir to the extent which I have mentioned. There has been the occupation of these northern areas. Over and above this there are 200,000 "irregulars" who, under the promise of loot and in other ways, have been available in the past.

I should like you, Mr. President, and the other members of this Council to look at this present picture and at what I shall have to say this afternoon in the light of what happened

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ten years ago. We were told that a few co-reglionists were upset and it, was added, "how could we stop them ? We are not behind them". It starts in this way by infiltration, blowing up bridges, killing people, seducing others in various ways and creating disorder. Then there is the movement from Pakistan of discontended people and of people in search of adventure—there are foreign legions in every country—who are pushed on into the mainland of India, and the invasion begins.

We have had the experience of this. We still think of men like Brigadier Rajendra Singh, who paid dearly with their own lives in order to protect others. A small band of 200 people tried to stop the enormous invasion in 1947, and every one of them was cut to pieces. The Kashmiris do not easily forget these things. We lost some of the most brilliant officers during the intial attacks in Kashmir. The surprise attack was like the one which took place at Pearl Harbor. What is more, we were foolish enough to believe what Pakistan's statesmen said; we thought that there might be an element of truth in it, that they really desired to liquidate this invasion. There is this vast military potential that exists in the shape of troops, equipment, the officering of units by Pakistan officers and the existence of the machinery of administratsion in Pakistan-occupied Kashmir itself.

If you look at the Seeurity Council records or at any of the records on any side, you will see that there is no justification whatever for Pakistan authority of a juridical, legal or administrative character in these areas.

I shall now go to a Pakistan publication in the attempt to get an analysis of the Pakistan budget. This publication cites figures of the Pakistan budget, which include items of administration in regard to these areas. This is Demand No. 79—Ministry of Kashmir Affairs, page 71 :

> "Secretariat—7.85 lacs of rupees; Offices of the Chief Adviser and Political Resident—.70 lac of rupees; Directorate of Public Relations—3.18 lacs of rupees

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Office of the Political Resident for Gilgit Agency—.58 lac of rupees."

"The increase in the revised estimate and the next budget is mainly due to the creation, during the current year, of the Adviser for Kashmir Affairs, and additional posts in the Office of the Political Resident for the Gilgit Agency..."

We have in our hands certain documents, which should interest the representative of the United States, to show that so-called Information Agency for Free Kashmir—whatever it is called—which is functioning in Washington is financed by the Pakistan Embassy. We have correspondence to show where it takes orders from and how it is to be run. We regard this as an action that is not consonant with the friendly relations that exist between the United States and ourselves; that is, to carry on the office of a rebel group financed by a country that is accredited to Washington. We are prepared to produce the evidence.

That if only one instance. Now we come to the political aspects. These places, the whole of "Azad" Kashmir which is in the Punjab area with nearly 1 million people, are under the Pakistan Government. There is a puppet Government there. There have been seven Governments in the last ten years and they keep on changing. Sometimes when you are outside the Government you get one view and when you are inside the Government you get another. I suppose that is characteristic of all Governments. There were other areas: Gilgit, Baltistan, Chitral—the whole of that area which formerly came under the sovereignty of the Maharaja of Jammu and Kashmir.

That is the territory of India, and those territories today have been *de facto* or *de jure*—and we say under the Pakistan Constitution illegally *de jure*—incorporated in the Pakistan territory. If the Security Council were to return a blind eye to this act of annexation. I say with great respect the United Nations Charter stands violated. We have no intention of

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laying any blame at the door of any member of the Security Council. It may be the complexity of this matter, it may be the fact that some people say that if you do not look at hard facts probably things will get settled, that if you do not do anything for some time, then something happens. But here is India, from which certain parts were taken by agreement; under the Indian Independence Act of 1947 the Dominion of Pakistan was constituted, and we were left free to accept accession from the remaining States.

The Government of India at that time very clearly impressed upon the Cabinet Mission and everybody else that, so far as we were concerned, these territories in India must accede either to Pakistan or to India and/or make other arrangements, which is what is meant by independence. Princely States were in no sense internationally independent, because they were all parts of the same territory. The question simply does not arise. We have the authority of the first Governor-General of Pakistan, Mr. Jinnah himself, that the accession of these States can only be by the head of the State. Self-determination took place at the time when accession took place. Maybe it was not democratic self-determination. But some of the things that have been suggested here are not democratic. Many countries that sit around the United Nations table are not necessarily democratic. It was self-determination, the "self" of State at that time as it existed under the atrangements originally fashioned by the British Parliament which we afterwards accepted. By that they became part of the Union of India. I quoted sufficient British, American, Australian and other precedents last time to the effect that under our system of government a unit of federation cannot walk out. There is no method of doing it, though there is a right of secession in a union like the Commonwealth, for example. The United States waged a war to establish this principle. We intend to protect the integrity of our country in that way, and therefore there is no question of the Security Council or Pakistan or anyone else having to pronounce on the question of accession. Accession is a fact and a legal fact.

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It is part of the international agreements to which Her Majesty, the Queen of the United Kingdom, functioning through her Government; the Government of India, functioning through its national leaders; the Government of Pakistan as at present constituted formely the leaders of Pakistan—are all equally parties. What is more, that accession has been made permanent; it obtains in the case of several hundred States, and if it were at all possible to make a change in this, it would affect the whole structure of the Federal Union of India. Therefore, the whole of Jammu and Kashmir, including what is occupied, is part of the Union of India. That is the position with regard to us.

I shall now deal with one of the main parts of the Foreign Minister's observations which calls Mr. Graham into the witness box [791st meeting, paras, 29 to 36]. I have no doubt that Mr. Graham can speak for himself. I do not know what he will say, but so far as I am concerned the record speaks.

I should like to state the position of the Government of India in regard to all the negotiations that have gone on before. We have said here that we came here on a complaint of aggression. The answer to that from Pakistan was : "No aggression has been committed, we are not there". Then the United Nations Commission for India and Pakistan was appointed, and we immediately accepted. Resolutions were passed. All that time, as the Commission has repeatedly stated, the one concern of the Commission and of the Government of India was to bring about a cease-fire. Therefore, we pushed on with all the conciliatory procedure, there were. If Pakistan had not obstructive and had performed part I of the resolution of 13 August 1948 and withdrawn all its troops and allowed the local authorities to function and had gone home like good boys, then perhaps the resolution could have been worked out in a short time and, as Dr. Jarring said in his report, *ad hoc* arrangements which are not achieved fairly speedily may become progressively more difficult. We did pursue this. We pursued this in Paris, in Geneva, with Mr. Graham, here and everywhere.

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Our position with regard to all of these conversations is that they are exploratory, just as the conversations with the Pakistan Prime Minister, Mr. Liaquat Ali Khan were before we came here. There were many piece of correspondence between my Prime Minister and him. The Prime Minister of India wrote to the Prime Minister of Pakistan saying: "We have done our best to try to get a settlement with you by talking to each of you and in various ways making various suggestions. You have not agreed to any of this. Now, therefore, we will fall back on our rights under the Charter."

That is how we came here. So just as the complaint on 1 January 1948 washes out any exploratory conversations that might have taken place earlier, similarly all conversations that have taken place since, whether they be between Prime Ministers, whether they be between Mr. Graham and the permanent representatives are purely of an exploratory character. The only engagements that we have anything to do with are the Security Council resolution of 17 January 1948 and the two resolutions adopted by the Commission 13 August 1948 and 5 January 1949 together with the assurances given to us by the Commission. This is not a new position I am taking up on behalf of the Government of India. I stated it the last time.

While I am on this point, I might deal with another matter because my Government is very anxiously concerned that no statement of ours or 'any errors of omission should afterwards be charged to us as a commitment. We have suffered by moderation; we have suffered by the reasonableness in our proceedings before this Council. Every time we have considered a hypothetical proposition and every time we have agreed to embark on an exploration, it has been charged against us as a commitment. Therefore, I want to say here and now that whatever mathematical calculations were made with regard to the figures of 6,000 or 3,000 or 12,000 or 21,000 in the various previous negotiations, they no longer hold true because no offer that is not accepted is a binding contract either in the case of individuals or in the case of nations. Otherwise, you would have a number of floating commitments and no country would know where it stood.

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Therefore, I want to say here and now that if anyone were to go to India, there would be no use in telling us that we had agreed to that at some time and that now, therefore, we are committed to it. We have agreed to nothing. We have discussed all these proposals. They must all be considered, like any other problem, in the context of the time. We have agreed to the things to which we have been parties. Whatever consideration, whatever provisional sympathies the Government of India might have expressed with certain proposals or explorations during the last seven or eight years are not binding upon our Government for two reasons. First of all, they arose in the course of long discussions, with all the surrounding circumstances that have taken place in different conditions, and whether friends around this table like to accept this view or not, changed conditions have to be taken into account. Therefore, no exploratory, hypothetical or provisional consideration that we might have put forward or entertained or considered with sympathy in the past are binding upon our Government.

My Government is most anxious that under no circumstances should we lay ourselves open again to what we regard as the erroneous suggestion that we are departing from commitments. We have therefore been doubly careful in declarations of this kind.

It has been repeatedly argued—and it is a good arguing point—that Mr. Graham made "X" number of points. I believe it was twelve points, or fourteen points. Fourteen is a sanctified number ever since President Wilson had fourteen points. But, whatever the number of points, we were supposed to have agreed to eight and a half, or nine and three-quarters, or something of that kind, and it is therefore said that all that remains is to agree upon the others. That would be true if the conversations were continuing. But the conversations have been terminated, and since then other things have taken place.

If there were a treaty between our two countries which started off by saying "the high contracting parties, in good faith and with a desire to live with each other, come to an agreement", and so on and so forth, and if that paragraph alone were agreed to, and not the remainder, where would be

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the treaty? Therefore, if at the beginning of this thing, it says that the position in regard to this shall be determined by the democratic method of a plebiscite, or whatever it may be, or that we agree to this or that or the other, it will only be when the document is complete that there is an agreement. You cannot pick out one part of it and say that you agree to that. That is our position. We never agree to anything seriatim. We are quite prepared to consider any item for the purpose of convenience or to discuss that alone and say "That seems all right" —but that is in the context of the whole thing.

That illustrates how the resolution of 13 August 1948 has been mistakenly regarded. In political decisions and in problems of this kind, you cannot take things out of their sequence or out of their context. If you put the bottom on the top or the top on the bottom, you get a very distorted picture.

That is how we look upon this mathematical calculation in regard to the number of points. We are not judging a boxing match—how many points in our favour and how many points in their favour. The Graham proposals—or any proposals—become binding upon us when we accept the whole of the proposals. If there are various paragraphs and we consider them and say that there seems to be no objection to this particular one, or that we are prepared to consider this one, or that the other one will do, that is good as far as it goes—and if those conversations were still continuing and there had been no breach, and our position were the same, it might have some value.

Therefore, we do not go along with any suggestion that you can pick anything out of the Graham report and say that India agrees to this and Pakistan agrees to that. We do not ask Pakistan to stand by any of those individual commitments in that way.

All exploratory conversations, in so far as they have not been conclusive, in so far as they do not bind our sovereign character in any way, are not binding on the Government of India. Not only are they not legally binding, but they are not morally binding, because they were merely approached as

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hypothetical propositions for the purpose of exploration. The very fact that there has been a discussion of so many figures, the very fact that there has been a question as to what arms there should be, and all the arguments about the character and the quantity of them—a question which has never been resolved—indicates that perhaps the unresolved question is not a warranty but a condition that goes to the root of this contract. And, if a condition that goes to the root of a contract is not agreed upon, all other conditions are subsidiary and have no value.

Therefore, so far as we are concerned, while we are grateful to Mr. Graham for his nice personality and for the endeavours he has put into the task with which he has been charged, the Government of India is not committed to any of those proposals at this time. We have considered them, and we have considered them seriously and sincerely and to the best of our ability. We tried to take the matter further. In our anxiety to take matters further, we might have been less than cautious. But they are only in the nature of hypothetical propositions and exploratory considerations. So it is no use trying to tell us on how many points we have won and on how many points we have lost.

That is the position in regard to the Graham report. And it is for that reason that my delegation has decided not to go into a detailed examination of the various Graham reports, because, if we do that, we go into the merits of this question. So far as we are concerned, that is part of the history, that is not part of any commitment by the Security Council. They are unlike documents of the United Nations Commission for India and Pakistan. These documents and declarations and the resolutions of the Security Council are decisions; they are resolutions, there has been some resolving of a question of one character or another, there has been a meeting of minds on this question where we have committed ourselves to it. Therefore, in category, in content, in their status, these conversations, whether they took place between Mr. Graham and our representatives, representing the United Nations on

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the one hand us on the other, or the two Prime Ministers, or officials at different levels, are all exploratory in character.

A large number of conversations go on between Pakistan and ourselves, some of which do not come to any conclusion. But we are not going to have a lot of commitments hanging around in the air. That is not the way to do business.

That is why my delegation has decided not to argue the merits of the various paragraphs that have been quoted. We could easily quote from them and turn the tables but I do not want to indulge in that exercise because then we would be committing ourselves to some value in regard to those proposals in the present situation. They do not bind us. They were never intended to bind us. They were preparatory discussions, and it is only when the document is complete that they would have some binding value. In every contract, as I have said, you have phrases which say "On account of our friendly relations", or "In order to establish this, we will behave in such and such a way", and so on and so forth. That goes into the preamble or the earlier paragraphs. Then come the hard facts of life—and, if you do not agree on them, that preamble goes by the boards, and that is all there is to it.

The status of all these references to determination to do such and such, references that you see in the resolution of 5 January 1949 and at other places, is exactly of the same character. In fact, the Commission recognizes that. So mush with regard to the Graham "commitments".

That being so, the Security Council has to address itself at the present time—not so much from our point of view as from its own point of view—to the report of Mr. Jarring (*S/3821*) which is before it and which certainly does not say that part I of the resolution of 13 August 1948 has been carried out. I have produced sufficient evidence—not out of my head, but out of the documents that are before you. And these documents are not pieces of evidence put in by us; they are the findings of the Commission, and it is my submission that this Council cannot go back upon the findings of fact of the Commision for India and Pakistan and that those facts cannot now be restaged, so to speak.

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What is more, those commitments go to the basic aspects of our position, namely, the unity or the integrity of India and our right to protect the whole of the State. In the third report of the Commission, this stated :

> "The Commission did not ignore India's claim to the right to safeguard the security of the State, nor did it put into question the legality of the Jammu and Kashmir Government."

There is only one Government in Jammu and Kashmir—a State Government—and that is the Government of Jammu and Kashmir.

The report goes on :

> "It had nevertheless to consider, as a Cemmission of mediation for the preservation of peace..."

Therefore, all these other matters that they propose are, again, conciliatory steps on an exploratory character in order to find some solution. Our legal or political or moral position is not altered by it in any way.

Then it is implied that, if the plebiscite had taken place, it would be some joint venture on the part of the Pakistan Government and ourselves. This would be the first time that the Security Council has ever recognized a place for an aggressor on a position of parity with those against whom aggression has been committed. It is quite true that in every action, whether municipal or international, the defendant becomes a party to the action. If a man commits an assault upon another and the person who is assaulted complains to the court, the first man certainly becomes a party to the action. But this does not give him the same status as the other man.

Now, aggression have been committed against us. Maybe we were guilty of errors of commission or ommission. Maybe we did not push our claims as far as we should have done,

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because, on the first day, we said that we had no desire to indulge in name-calling. We did not want any branding of anybody. What we wanted was, in effect, the vacating of the aggression. That is still our position—and that situation can only be brought about in two ways.

When we came to the Security Council on 1 January 1948, we said that this aggression could be vacated only by military action, only by the invasion of Pakistan by the Indian army. Now, war between two countries like India and Pakistan is unthinkable; it is the last thing which should ever happen. If, however, there is an attempt to push into our territory, we shall defend it to the best of our ability, and no one knows what will happen.

We came to the Security Council to prevent such action. We said at that time.

> "The Government of India request the Security Council to call upon Pakistan to put an and immediately to the giving of such assistance, which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled, in self defence, to enter Pakistan territory, in order to take military action against the invaders. The matter is therefore one of extreme urgency and calls for immediate action by the Security Council for avoiding a breach of international peace." [*S/1100, annex 28, para, 1*]

It is quite true that we did not invoke Chapter VII of the Charter; we did not ask for the operation of Article 39 in order that the aggressor might be branded as such. We did not do so largely because of our relations with Pakistan, which will, I think—despite these present difficulties—settle down in the course of time to what they should be. For we are two countries, on one mainland, two countries with a common background and with common interests. When certain extraneous circumstances disappear, the character of our people will assert itself and friendship will reign. Meanwhile, however, we have no intention of allowing our territory to be violated.

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Thus, we came to the Security Council with this request, and the request remains before the Council. That brings me to two aspects with which I must deal, relating to what has happened since the last series of Council meetings at which this problem was considered.

When I last spoke to the Council, although I did not plead the doctrine of *rebus sic stantibus*, I pointed out the changed conditions. I also said that pacts must be observed. That has not happened. In the last three or four months, however, there have been many changes in the position *vis-a-vis* Jammu and Kashmir to far as Pakistan and all its operatives are concerned. It is my intention to place before the Security Council the facts in this regard and seriously to ask the Council whether it will ponder over the implications of those facts. I shall be put to the painful necessity of citing the sources and springs of these actions. A representative of a Government must, in courteous language deal with facts, however unpleasant they are.

This afternoon, therefore, I shall deal with two aspects of the matter. I shall state what has happened with regard to the question since the last series of Council meetings and since Mr. Jarring returned from India—facts which may—although we hope that they wite not—have implications concerning what may happen in the coming months. I shall also deal with our own position in regard to Jammu and Kashmir.

Several friends of ours, including the United Kingdom representative, often ask us what our position is, what we propose. Well, we have made our proposal several times, and this afternoon I intend to give the contents of the proposal.

These events which I shall describe are not matters of hearsay; they will be substantiated by the necessary evidence. We do not ask the Security Council to sit in judgement on this case, because, as I have said, this is not a court of law or a body for deciding territorial questions. But we have come here, with a full sense of responsibility, to put forward facts which cannot be denied and which are substantiated with docu-

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mentary evidence. We have pointed out, not only that some of these statements which have been made with regard to what obtains on our side are untrue, but that the facts show that quite the contrary is true.

I should have said, when I was dealing with the question of conditions in occupied Kashmir, that we have had large numbers of refugees coming from that side. Your predecessor, Mr. President, had a communication addressed to him by the Foreign Minister of Pakistan [*S/3860*] alleging that the Government of Kashmir had settled in the homes and on the property of those who had gone away Hindus who, presumably, did not belong to the place and that, thereby, that Government had committed a violation of the international agreements.

We replied to that almost immediately. We had no difficulty about answering them, since the facts are plain. We saw a subsequent communication only two or three days ago, but the facts are entirely to the contrary. We have great difficulty in preventing people from coming over the cease-fire line in search of food or better conditions or, sometimes in the case of the leaders, because they have been driven away by political conditions. But tens of thousands have come over into South Kashmir. This never-ending stream of people who are seeking refuge and food is an endemic problem for India. Millions of them have come from Pakistan, and the Indian Government has spent the equivalent of $630 million in order to house and partly, not entirely, rehabilitate these refugees. It is presenting an enormous problem in the context of India as a whole.

With regard to the cease-fire line, we are up against these main difficulties. There is no guarantee that everyone who comes in is a genuine refugee. He may be an infiltrator, but since they are citizens of India we do not want to take harsh measures to find out what they are. There is no doubt that some of them are infiltrators, because we have found some of them are.

Large numbers of refugees come in, and these figures will be given this afternoon. The people who have been settled in

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these areas are people who had gone away from there. It is not a question of settling Hindus or Muslims; they are Kashmiris who had been driven away by invasion or who after the lure of a false propaganda about a theocratic State now find it is better to have food in their stomachs than to proclaim some doctrine of that kind. Thousands and thousands of people have come across the cease-fire line, and their number grow. It is presenting a very considerable problem, a problem that might quite well become mixed up with the mischief that is going on.

The 4.5 million that have come into Eastern India are in addition to those who took part in the mutual exodus that took place at the end of 1947, when millions of people went from is now India into what is now Pakistan and from what is now Pakistan to India. That was one of the biggest mass migrations in history. We thought that everything had settled down, but since then large numbers of people have come to our country. I should like to give the details of this when the Security Council meets this afternoon, because all this is relevant to the alleged question of genocide and ill-treatment by us.

171. *Text of the speech made by Krishna Menon (India) in the Security Council meeting No. 796 held on 9 October 1957.*

This morning, at the 795th meeting of the Security Council, I dealt with some aspects of the problem as it presents itself to us. A great deal remains to be said. I would like to reiterate the fact that the delegation of India reserves its position in regard to any matter that may arise as a result of observations of the members of the Council or of the representative of Pakistan in the near future. I crave the Council's indulgence for speaking longer on this subject. I will use my best endeavours to finish during this session. I am grateful for the patience with which the members of the Council have listened to me and the consideration they have shown.

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This morning I left off while speaking about the refugees. This refugee problem is only partly a problem related to the question we are now discussing. It is a world problem and it is a problem of all of India. But it largely comes up here because the representative of Pakistan has thought fit to charge us with cruelty, with mass murder—which is eupheme stically called genocide—and to attribute to us the very failing of administration and of anti-social actions which, as the facts with show really lie at their door.

In his statement at the 79:st meeting, the Pakistan representative described in detail the alleged sins of India in this matter and how the Muslims in India, 40 million of them, live in continual terror and fear of mass murder, extermination and all kinds of things. In order to give same, I do not propose to quote it all. One of the passages is as follows :

> "It is nothing short of an admission that the Muslims of India are hostages for Kashmir. This threat of genocide is political blackmail of the lowest order and discloses a mentality which makes one shudder. There are proportionately as many Hindus in Pakistan as there are Muslims in India. But we have now indulged in this type of blackmail by threatening that if Kashmir does not come to Pakistan the Hindu minority in Pakistan will be exterminated." [*79Ist meeting, para. 19.*]

I have no desire at present to contest the figures given here, which, incidentally, are not quite correct. That does not matt very much. There is no genocide or any kind of mu: der going on in India except the normal course of crime which takes place, I suppose, in Pakistan as in our part of the world.

We deeply regret this kind of extreme statement which has brought from distinguished Muslims in India, including members of the families of men who are members of the Pakistan delegation, very strong protests that this has been a calumny upon them and, what is more, makes them less than full citizens of India in the estimation of their co-religionists

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elsewhere. One of them, without arguing the case, of course, simply says, "You mind your business. We can take care of ourselves." I do not propose to say that. Genocide, so far as the United Nations is concerned, is pretty well defined in the Convention of the Prevention and Punishment of the Crime of Genocide. This throwing around of words like "genocide", "self-determination" and various others extracted from their context merely makes a caricature of their purposes. It is not likely to contribute in any way to the fulfilment of the purposes of the Charter.

I come back now to the actual position in India—whether people of one religion or the other are safe and what are the conditions they live under—not merely to refute this argument, but because we are now faced with a social, national and international problem. First of all I shall deal with the limited issue of Kashmir.

The representative of Pakistan told us some time ago that half a million people—in round numbers—had gone from Kashmir into Pakistan. We have fairly accurate figures of egress from and ingress to our territory, except when the frontiers are violated in a clandestine manner. So far as we know, a number of people went out at the time of the invasion by Pakistan irregulars and regulars. There was a great deal of panic. A great many have returned. The present situation is that 450,000 Muslim refugees, refugees of the Islamic religion, have returned from Pakistan-occupied Kashmir and have been rehabilitated by the State Government of Jammu and Kashmir.

It would be interesting to know how many authentic figures of that character can be produced by the other side. Non-Muslim refugees who returned from Pakistan-occupied Kashmir are 122,429. The total number of Kashmir Muslims who migrated to Pakistan at the beginning of the troubles was not 500,000, as has been said, but 208,818. These are the figures. We have considerable expenditures in connexion with these refugees, and when you spend money you are likely to keep the statistics properly.

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This is related to the other and larger problem; after the greatest mass migration in history from Pakistan to India and from India to Pakistan upon the partition of the country (after agreement had been reached with the present Prime Minister of Pakistan representing one of the important parties in East Bengal), over 4 million people—that is equal to the population of a large number of countries which are Members of this Organization—4 million people have migrated from East Pakistan, that is, East Bengal, into West Bengal. The monthly rate in 1955 was 20,000, while the monthly rate in 1956 was 26,500. This continuous migration of those who for religious reasons are persecuted and thrown out of Pakistan shows how intolerable are the conditions of the minorities in Pakistan. We should be glad to receive from the Pakistan authorities details of any authenticated cases of religious persecution in our country, and they will be dealt with according to law.

The causes are political, economic and administrative. I will give some examples. There are official circulars, copies of which we receive, sent out to all firms asking them to employ Muslims, thus displacing Hindus on a large scale. There is the expulsion of Hindus from the cloth trade, which was one of their mainstays; 80 per cent of that trade was in Hindu hands and the number of quota-holders has been reduced from 1,200 to eighty. In all our communities today trade is controlled and licences are required, and the Government has a hand in it.

There are official instructions to foreign oil companies—I will not mention names—resulting in the expulsion of Hindus from the oil trade. There is the large-scale dismissal of Hindu officers from the estates which have been acquired by the State from the big landlords. There is a considerable increase in crimes, particularly in sexual crimes against Hindu women. There is persecution of the scheduled castes, formerly called untouchables—Hindus who are agricultural workers and who number about 5 million in East Pakistan. There is the introduction of a religious basis into education in Pakistan the Islamization of education. We are in favour of a secular education, with freedom of conscience and worship and free-

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dom to learn whatever religion may be desired, but education should remain secular, especially for the minorities. There has been wholesale cancellation of firearms permits possessed by Hindus and the free supply of firearms to Muslims in East Pakistan. Numerous cases of assault, murder, missappropriation of property, dacoity—that is a peculiarly Indian word meaning armed robbery—are reparted, coupled with an unsympathetic attitude on the part of local authorities, and fear of police reprisals has undermined the confidence of the minority in the administration. These matters are the subject of continual discussion between our officials and theirs, and we both know a great deal about them.

On this matter of the suppression of human rights it is as well to quote the present Prime Minister of Pakistan, who, until some time ago, was an Indian citizen. We would have been glad to have him, but we are happy Pakistan has him. The suppression of human rights, which the figures I have given discloses, has been commented on by the Prime Minister of Pakistan. Speaking in a debate in the Pakistan National Assembly in October 1956, Mr. Suhrawardy—he has then the Prime Minister—questioned a member's statement—the member was probably a Hindu or a liberal Muslim—about persecution, that the onus lay upon the Hindus to prove whether they were loyal or not. He said :

> "You tell me today: what signs have they"—the Hindus —"shown of loyalty to Pakistan ? My answer is clear. What have you done for them to get their loyalty ? In what way have you shown them that you tseat them in the same manner in which you have treated the Muslims ? How many posts, offices, jobs, positions of honour and positions of responsibility have you given them ?"

That is Mr. Suhrawardy.

Mr. Gibbon, an Anglo-Indian presumably, deputy speaker of the National Assembly and minority leader deplored recently in Karachi that politics in Pakistan in practice often

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meant "all for the party, nothing for the people; all for policy, nothing for principle; all for office, nothing for honour; all for power, nothing for progress". Probably a piece of rhetoric, but there is an element of truth in it.

I have given you the figures of the migration of Muslims from India to East Pakistan—not just now, but right through —at 1.5 million. The migration of Muslims from India to West Pakistan was 6.1 million. This was at the time of the troubles. From that mass migration, 1 million Muslims returned to India from East Pakistan. These statistics are published in India; all public affairs are like on open book and the figures have been published in newspapers and have been seen by visitors; 1 million Muslims have returned from East Pakistan into India. Similarly, 100,000 have returned from West Pakistan to India. That does not represent a country where genocide exists. It would be a very sad state of affairs if 1 million people were to come back to be slaughtered, but that is not what happened. They came back for more food, better sanitation, more shelter, more liberty and more self respect.

The excess of Hindu migration from Pakistan over Muslim migration from India is 2.2 million. I have read out these texts because it is a grave charge against a civilized country—and we take it upon ourselves that we are one—it is very grave to be charged with genocide before this Council, and we should like to know what the rest of the members have to say. If there have been mass murders in India, that matter should have been brought here under the Genocide Convention, under the Charter, under the Declaration of Human Rights. A purely spurious charge of genocide was made against us in 1949, and the Security Council quite rightly put it on the shelf. There are the facts.

If the Council will bear with me, I should like now to quote some of the observations of non-Indian people on this question. Practically all of these authorities are in no way biased in favour of India. One is the *Manchester Guardian* of the United Kingdom, which is highly critical of Indian policy every time, It said :

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"The East Bengal Hindu very rarely gets a job, they say, and firms have been pressed to replace Hindu clerks and dealers by Muslims. Refugees arriving in India do not come in a rush of panic, they wait for slow demoralization, gradual insecurity and economic distress to nudge them out".

Constrasting the situation on the Indian side, the *Manchester Guardian* states :

"West Bengal",—that is the past of Bengal which is India—"West Bengal alone has absorbed over 3 million Hindu refugees who live in communal harmony side by side with 6 million local Muslims. One might expect tension; but there is none. The people explain : "The Muslims have done us no harm, it is Pakistan which has done the harm."

This is a British paper which, as I said, is highly critical of us.

This is a religious view. Bishop Pickett, formerly of the Methodist Church in India and Pakistan, in a letter dated 8 March 1957 to the *Christian Century* said this :

"Indian Muslims are happy in India. Many who went to Pakistan have returned and there is reason to believe that millions would like to do so."

Then we go further outside our Commonwealth; other connexions, and here is a Turkish authority, the very country that was supposed to be willing to lend assistance in the Indo-Pakistan relations. *Yeni Istanbul*—a well-known paper in Istanbul says :

"Pakistan has to go a long way before becoming democratic in the Western sense of the word. Contrary to her neighbour—the secular Republic of India—Pakistan has still not freed itself from the vestiges of the theocratic

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system. A surprising aspect of the Pakistan Constitution is that the document which gives thcocratic foundation to the State is a brand new law, not even two years old." (It is not as though it is derived from some historical circumstance.) "Those people who thought that their political influence could last longer only by counting the mullahs and the mass of backward people were not reluctant in producing a Constitution which has been one of the most peculiar documents of modern times. In these days the whole world is going towards secularism, liberty and freedom of religion; acceptance of such a Constitution compels one to look at the real structure of that State."

We are not here to critize the Pakistan Constitution as a Constitution, but when the juxtaposition is suggested with a secular State that guarantees freedom of thought and not only permits it, but encourages it and is part of our life and there are charges of this character, it is necessary for us to state the position.

And now we go to an Australian source and you know that the Australian view on this question has not been in any way a reflection of ours, to put it very midly. Mr. B.V. Coventry, senior missionary of the Church of Christ, in India, speaking at Canterbury on 31 August 1957, said :

"One of the outstanding features of the Government of India since independence has been its attitude of tolerance".

I think it is useful to say this today because those who were not so well-intentioned towards us sometimes speak of other persecutions of Christian missionaries in India. There are today 25 per cent more foreign missionaries inside the country than there were before independence. It is true that when a missionary interferes in political affairs or tries to subvert the foundations of the State, he comes under the same laws as any other citizen. If he is a foreigner, he goes home.

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But apart from that, his work goes on, and we are happy to have him there, particularly in the field of social services.

Mr. Coventry goes on to say :

"In matters of religion there is complete liberty in India and it is written in the Indian Constitution that one has the right to practise and propagate one's faith and belief. This indeed is tolerance in a land where the major religion embraces 87 per cent of the population".

It is easy for majorities which have the power of the vote, the power of parliament, the power of the press and everything else to disregard minorities. We are only too familiar with that. We do not claim this as a particular virtue of ours. It is what we have inherited.

Mr. Coventry went on to say :

"The Government of India had given recognition to the contribution made by Christian missionaries to the development of India."

He quoted the award of the Florence Nightingale medal, India's highest nursing award to a Christian nurse.

Then we go on to an American source :the *Atlantic Monthly*. In September of this year it wrote under the heading "The World Today".

"The position of 9 million Hindus in East Pakistan is shocking. They are almost ensirely excluded from the army and the civil service. Last year 320,000 Hindus fled to India mainly to escape a food shortage and growing inflation, but also to escape constant police and official tyranny. The exodus currently averages about 10,000 a month."

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I think that this would not be complete if we did not have what I may call an Islamic opinion. We had the good fortune and privilege of welcoming King Saud of Saudi Arabia to India. He was quite free to go everywhere. He is a leading Muslim, custodian of some of the holy places of Islam and he is highly respected in our part of the world. He visited many of our mosques, religious institutions of various kinds and he spoke before the President of India in this way :

> "I was deeply impressed by your statement"—that does not mean much—"that your Government follows a policy of complete equality, justice and equity towards all Indians, irrespective of their creed. Indeed, the Constitution of your Republic guarantees the full rights of citizenship to all your people, irrespective of their religion."

It might have been regarded as a mere pleasantry if it stayed that way, but His Majesty went on to say :

> "It has pleased me beyond measure to have had collaboration of the pursuit of this noble and enlightened policy of your Government from the leaders of the Muslim Community"—because when he comes to us he is not merely the King of Saudi Arabia; he is an Islamic leader, a custodian of holy places. "You will appreciate, Mr. President, my satisfaction at this happy feature of the national life of this country."

Two days ago, one of the leading Muslims of India, who with the rest of his family in the days gone by stood side by side with the rest of India in the national liberation of our country, the Nawab of Rampur, sent a telegram, which said :

> "I am deeply pained to read Noon's false and malicious statement regarding Indian Muslims. We are all Indians first—if anything else, it is afterwards. There is no distinction of colour or creed in secular India. Noon sitting on a volcano should not indulge in baseless and

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cheap propaganda in regard to Indian Muslims, of whom he knows nothing. Request my views on behalf of the Muslims of India, especially of the Shiahs of India, be conveyed to the United Nations."

Now there is today, following Mr. Khan Noon's speech in the Security Council, a nation-wide agitation in the whole of Indian which we are finding difficult to handle because we do not what this matter to become a Maslim-Hindu business in our own country. But the Muslims of India are deeply hurt by the way they have been presented here. They are self-respecting citizens of our country occupying the highest places in Government, in the diplomatic service, in the professions, in public life and in business without any distinction whatsoever.

We are told that there are others who are not of the Islamic religion, who support Pakistan's policy in India, who are deeply disturbed about the ways of the Government of India and the suppression of liberty. And two names are produced before you. Normally it is not usual to deal with one's own citizens in this way, but all sorts of things happen in India. People sit down and attack the Government all day, and they go on doing it. (I think that apart from the Government of India the only person who is receiving more attention is Mr. Cabot Lodge, not uncomplimentary). Everything that is possible is being said about it. In his statement at the 791st meeting, Mr. Khan Noon said :

"It is a well-known fact that a number of prominent Hindu leaders of Kashmir, like Pandit Prem Nath Bazaz"—who is in the pay of Pakistan—"are in favour of a decision through plebiscite, and are suffering much tribution at the hands of Mr. Nehru's Government for advocating the accession of the State—their homeland—to Pakistan." [*791st meeting, para. 20*].

Then we were told about the Vice-President of the

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Kashmir Political Conference: it sounds like a big name. Mr. Noon said :

> "It is also a fact that the Vice-President of the Kashmir Political Conference, which openly advocates accession to Pakistan and of which more than a dozen leaders are behind the bars without trial, is a Hindu Pandit of the Valley—Mr. Lakhanpal—who is a prominent Hindu leader of India." [*Ibid.*]

I have done everything including seeking information from India, but nobody there has heard of Lakhanpal. He is certainly not a prominent person.

Then we have a great deal in praise of Sheikh Abdullah. I am sure that Sheikh Abdullah will be pleased, because I am not going to read it out. I have here volumes about Mr. Abdullah being a quisling and stooge and what not. What is more, I quoted before this Council time after time his speeches in the Constituent Assembly. He has placed three choices before his people, and he has said there is only one choice that the Kashmiri people should make : that of remaining in India. What is more, he has said that if it is a question of Muslim and Muslim, an Indian Muslim is as good any day at least as a Pakistan Muslim. Now that Sheikh Abdullah, for reasons which have nothing to do with what is said here, is in detention—and we hope it will come to an end—he has suddenly become a hero. It is surprising that those who are willing to be antisocial toward a neighbouring Government come under favourable notice.

That deals with the question of refugees and genocide. I have said this because we still have responsibility—administrative, political, legal and other—for the part of Kashmir which we administer, but we have political and moral and legal responsibility for the whole State of Jammu and Kashmir. We suffer from the sin of permitting occupation. To that extent, we are guilty with regard to the people who are under occupation. But, having regard to the necessity of not

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creating eruptions, and moved by the same spirit that led us to order back an advancing army and arrange the cease-fire, line, we think they have to suffer for some time, until the Security Conncil wakes up and does something about it.

The next set of factors with which I want to deal relates to the new conditions that have arisen in Kashmir, the new factors, and I shall try as far as possible to keep strictly to new factors since February of this year in relation to Kashmir and Pakistan, since the last meeting of the Security Council.

First. I shall deal with those facts relating to part I, paragraph B of the resolution of 13 August 1948 [*S/1100, para 75*]—the augmentation of military potential. All I said this morning had relation to augmentation of military potential from 13 August 1948 and the last meeting of the Security Council. But now we come—I am now separating these facts —to the augmentations that have taken place in the last few months.

The strength of the Northern Scouts has been increased: they have become a more military formation than ever before. It was a small body of about 3,000 men, and it has grown 200 or 300 per cent in size.

There are the infantry battalions of the "Azad" Kashmir forces. We thought they had been cut down to twenty, as from thirty, by streamlining. They have been armed with heavier weapons. Today they have 81-millimetre mortars; they have light infantry antitank guns; they have other weapons which I am not at liberty to name. And they are well armed to fight against bunkers, against our armour, against pillboxes, against all the barricading we might do anywhere. These forces have been issued with Belgian-manufactured launchers and the anti-tank weapons that Pakistan previously obtained for its own forces. They have French rocket launchers and anti-tank guns and medium machine guns, all supplied to these troops. So if you have any idea that this is a kind of territorial army, any kind of parade army, that is a mistake.

Again, during this period, one platoon in each infantry battalion of the so-called "Azad" Kashmir forces has been

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trained in guerrilla warfare, which includes arson, subversion and assassination. The personnel of this platoon has been issued with noiseless pistols and daggers—we have some of them—in addition to other weapons. In order to impart training to all "Azad" Kashmir forces under simulated model conditions, four training schools—very much like the Commando schools in England during the war—have been established. I must say here that among the many good things that the British left in India was a good military intelligence. It is much better even than it was before.

We have also the report of a gun powder factory in occupied Kashmir. Pakistan has constructed, not through the West Pakistan Government but through central authority, strategic roads and bridges.

The Council will remember that the United Nations Commission for India and Pakistan, through it Chairman, had given undertakings in writing to the Government of India that no permanent changes, no consolidation, should take place—not only of political authority, but of any kind. But here is a whole change of topography, of strategic layout and of everything else.

This is information from Indian sources. It is interesting to see that again an American correspondent who is generally regard as a military expert, Mr. Hanson Baldwin, has given an estimate of the position. He says :

> "The strength of Pakistan forces is about 200,000, plus para-military forces organized in seven or nine divisions, Pakistan has (this was in April last) about 125 aircraft. Pakistan's army is the second largest army among the countries of the Middle East..."

I shall deal with this question again when we come to the question of withdrawal of forces.

All these developments take place against the political background of the harangue coming from the Prime Minister of Pakistan. And this is what the Prime Minister told them

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on 26 February 1957, three or four days after the meeting of the Security Council, when the distinguished representative of Sweden was going to discover whether part I, paragraph E of the resolution of 13 August 1948 had been carried out or not :

> "We have probably the finest army on this side of the continent. We have such brave people behind us that I can with confidence say that we can challenge any army in any part of the world. [A very blood-curdling speech]. We have confidence in ourselves [a good thing] and in our Creator, and it will make us conquer anything which stands in our way." (I heard speeches of that kind prior to 1939.)

That deals with the military changes, of which I have given you some sample information. It is not possible to place before the Council every bit of every item that we have on so many pages.

Then we come to another aspect which is also a violation of the sovereignty of Jammu and Kashmir, of the agreements between the Maharajah of Kashmir and the British Government, of the resolutions of the Security Council, and, more than all, of the rules of humanity. This refers to the construction of what is called the Mangla Dam. We are not against progress anywhere. We would like to see in Pakistan—it is not for us to say, and I mention this with great respect—the development of hydroelectric power of waterways and everything else, and, if we could be of assistance in any small way, we would be willing to provide that assistance. Therefore, we are not against progress of any kind. But to build works in places at the expense and the sacrifice of the people who live there—that brings in other considerations.

The Mangla Dam is a dam of considerable size, which is supposed to irrigate 3 million acres of land. I thing, in Pakistan—not in Kashmir. It takes the water of the Jhelum into the Punjab. Both the river and the dam are in Kashmir, in occupied territory. Therefore it is under the sovereignty of India, it is in the territory of the Indian Union, where the

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aggressor has not only sat in occupation but has harnessed the water, changed the topography of the places and everything else. However, if all this were done without any harm to anybody, perhaps we might says. "When they go away, we will have a data."

But what did happen? This advice, of course, came from the army. It was in the days of the invasion, and the Commander of the Pakistan Army told the Pakistan Government at that time:

> "It would also give them the control of the Mangla headworks (that is; give control to the Indian Army) thus placing the irrigation in Jhelum and other districts at their mercy." [*464th meeting, p. 28*].

This was the counsel for the invasion of India. We have pulled our punches on this for quite a long time. The Upper Jhelum Canal irrigates the area of West Pakistan, not Kashmir. The Mangla headworks and the first nineteen miles of this canal lie in the territory of Jammu and Kashmir. For this purpose, land was given by the Kashmir State to the old British Government in the Punjab in 1904. That is why I say it is a violation of past pledges. Punjab was the home of great irrigation, and the Punjab Government was progressive in these matters. They negotiated with the Kashmir Government. It was given free of cost. But one condition is laid down in the deed—it is in quotation marks—that it should always remain the property of the Darbar, that is, always remain part of the Jammu and Kashmir State, for irrigation works.

Not only by the illegal occupation but by the work now going on, the Government of Pakistan has prevented Jammu and Kashmir from enjoying the results of irrigation as such. Of course, all of that is small when it is placed side by side with the hardships of the people. In Pakistan-occupied Kashmir today, large numbers of protests are being made by previous heads of the "Azad" Kashmir authorities and other leading people there. I do not want to take the Council's time in

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reading them out; I think that the Council previously decided that, unless there were very special reasons for doing so, papers should not be circulated, but I certainly could circulate to members these protests that are being made. As a result of the construction of the dam, 122 villages and the town of Mirpur, which is one of the most important towns in this area, will be submerged; this is a total area of sixty-six square miles. We have submerged some areas in India—but they were ruins, not living towns—for the benefit of the people all around them. Sixty-six square miles of land will be submerged as a result of the construction of the dam. The whole of this plan and the allocation of money for it, and so forth, appear in the Pakistan figures. About 100,000 people will be deprived of their livelihood. According to reports in Pakistan newspapers, thousands of these people will have no alternative but to migrate to distant parts of West Pakistan for resettlement, thereby losing their state citizenship rights and their Indian citizenship rights.

The opposition to the construction of this dam is very widespread, and much literature is being circulated on this score. The ex-President of the so-called "Azad" Kashmir Government, Colonel Syed Ali Ahmed Shah, and Abdul Khaliq Ansari, Convener of the Jammu and Kashmir Awami Conference, have issued a publication making it clear that a number of protest meetings have been held all over Pakistan—occupied Kashmir against the Pakistan Government's decision to construct the dam. The publication gives the names of a number of leading citizens who are opposing this scheme. The publication also describes the activities of the Anti-Mangla Dam Front. The Front has issued its own publication on the consequences of the scheme. Five political parties in "Azad" Kashmir have sent a joint appeal to the members of the Pakistan National Assembly, protesting against the construction of the dam and saying that it is surprising that the party in power is exhibiting more enthusiasm about constructing the Mangla Dam than about the restoring democratic rights of the people of Kashmir, though the Mangla Dam scheme will deprive 100,000 people of their citizenship rights.

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This plan has not been prepared in Kashmir. It has nothing to do with the "Azad" Kashmir authorities. I know that the Pakistan Government has issued an answer—rather belatedly—in reply to our original complaint, stating that some agreement was made between the "Azad" Kashmir authorities and the Pakistan Government. But that makes it worse; that adds more trouble to this business. The "Azad" Kashmir authorities have no right to enter into any international agreements. They are only a local authority. The sovereignty lies in the Jammu and Kashmir Government, and to the extent that the Pakistan Government concludes an agreement with the "Azad" Kashmir authorities it violates the principles of the United Nations Charter and the resolutions of the Security Council; it disregards neighbourly relations with us; and it acts dishonestly.

The plan prepared for the construction of the dam in the District of Mirpur has unleashed a wave of restlessness and discontent in all corners of "Azad" Kashmir. One of the publications says that the people raise their hands to Almighty God, entreating: "Oh, God, what an affliction is to fall on us, the oppressed and the helpless, as a result whereof we shall not only be rendered homeless and destitute, but our very name will be affaced from the surface of the earth.

There have been no consultation with the Government of Jammu and Kashmir. We still have diplomatic relations with Pakistan; the Commissioner and other persons are very good friends of ours. Since there are so many discussions going on, one would have expected—if some arrangements of this kind had to be made—that the sovereign authority, the Jammu and Kashmir Government, and the Government of India would be consulted on the matter.

One hundred and twenty-two villages are to be submerged under water, and 100,000 people out of 1 million are to be rendered homeless. What are these helpless persons to do? This in violation of the categorical assurances given to the Prime Minister of India by Mr. Lozano, the Chairman of the United Nations Commission, that Pakistan—the aggressor—would not be allowed to consolidate its position in the territory

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it had unlawfully occupied. Pakistan, by carrying out this project, is now entrenching itself further in this area, quite against the assurances which were given to us and on the basis of which we agreed to the resolutions of the Commission for India and Pakistan. Pakistan is carrying out the projects, taking into account the fact that the lawful authorities of the Jammu and Kashmir State and the Government of India are not there to protect the helpless people.

Now, in answer to all that, the representative of Pakistan says, "India is in unlawful occupation of Kashmir territory". But where does that come from ? From the resolutions of the Security Council ? From any agreements we made with the United Kingdom Government ? From any practice of international law or of neighbourly relations ? No.

We have been asked : What about the tunnel which has been built under the Banihal Pass ? How is that in principle different from the Mangla Dam ? I shall be glad to answer those questions. The Banihal tunnel is a great feat of engineering. It has been made possible by German engineers, who dug this tunnel through the mountain. We are not draining away the wealth of Kashmir through the pass. We are enabling the agriculturists of Kashmir to send their fruit and their wool, and so forth, to India and other places for trade. The tunnel provides an all-weather route. Although it is a great feat of engineering, the Banihal tunnel does not in any way violate anyone's sovereignty; it does not exploit the local peoples; it does not take away the riches of one place in order to provide them for another place, at the expense of the local inhabitants. In all those ways the Banihal tunnel is different.

I think that it would be wrong for me to draw comparisons. Who is to say what the Kashmir Government may do under its own State jurisdiction and what the Union Government may do on Union territory ? The Banihal tunnel has not been built in the interest of any one part of India, but in the interest of all India, and particularly Jammu and Kashmir. There was no opposition whatever to the building of the Banihal tunnel. No houses had to be removed, because the

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tunnel was dug through the bowels of the mountain, where no one was living.

I have thought it necessary to provide the Security Council with this informatian in connexion with document S/3896 of 4 October 1957, which is Pakistan's reply—and a rather belated reply—to our original complaint in this regard [S/3869].

I come now to the most important and sinister part of the developments that have taken place since the Council's last series of meetings on this subject. I state in all seriousness and solemnity that a new wave of aggression has begun against us. This is not merely the consolidation of the aggression of the past, but a war of the kind described by Mr. Dulles in one of his writings : it is war by sabotage, by murder and by incitement of various kinds. The Pakistan Government is aiding, abetting, inspiring and supporting movements in order to create subversion inside India, in the hope that by fishing in troubled waters it may get something. I do not desire to go back any further than February 1957, but it is important that the Council should know that this is not just a sporadic act : it is a premeditated act, and, what is more, the personalities involved are important.

On 26 November 1955, there was held at Karachi what was called an All-Party Conference. It was convened by a former Prime Minister. Reports subsequently appearing in the Pakistan press from time to time brought out the important fact that the Conference was called to discuss and strengthen the home front and suggested the formation of the Kashmir Liberation Front with branches all over Pakistan. Now, how does the Pakistan Government promote a Kashmir Liberation Front when this matter is before the Security Council under Chapter VI of the Charter ? Either Pakistan abides by the Charter, or it does not.

Then, a high-level conference was held at Rawalpindi between May and July of 1956, attended by important people from Pakistan and Pakistan-occupied Kashmir including no less important a person than the gentleman who afterwards became the Foreign Minister of Pakistan and today presents

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Pakistan's case before the Security Council. According to our reports, it was decided at this conference that in order to further Pakistan aims, disorder should be created in Jammu and Kashmir. It was after this conference that Pakistan intelligence officers who were posted upon our border were called back to Rawalpindi and trained. All this soon developed into a war-cry. Pakistan leaders and newspapers at that time openly advocated the mobilizing of volunteers, and there were many volunteer movements—some of them proved abortiveness to cross the cease-fire line. A great attempt at infiltration was made. We have the greatest difficulty in dealing peacefully with these people because, while it is easy enough to push them back by force, as I said before, we do not want, on the one hand to add to the difficulties that exist and, on the other, these people are Indian citizens. In fact, it has been disclosed by some of the leaders in Pakistan-occupied Kashmir that a day in November was being fixed for D-Day in Kashmir itself.

The Jammu and Kashmir "United Front", so-called so that Pakistan can disown official responsibility, has had literature published on this question. I will pass over the whole of this movement of the dubious Mr. Tariq, otherwise Akbar Khan, who, of course, will be duly disowned by the Pakistan Government, who sits there as a maquis leader in reverse in order to foment trouble, but I will refer to the parts of it that are important.

A new offensive begans in the middle of June 1957, and I should like the members of the Security Council, particularly those whose countries are in military alliance with Pakistan, to take these facts into account because there are codes of war and conflict. Bomb explosions started in the middle of June 1957. In June 1957 there were five such explosions, three in Jammu and two in Kashmir. In July there were four, and people were killed and injured. In August there were five explosions and four in September. On the first two days of October, after we came here, there were five explosions. We have been receiving information all the time. From 18 June to 2 October there were twenty-three explosions in the State of Jammu and Kashmir. These have resulted in damage to pro-

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perty and in persons being killed and injured, including our Army personnel who went to dismantle the bombs. There is little doubt that a deliberate attempt has been made to create communal trouble by the use of these explosive devices. What usually happens is that a bomb is placed in a mosque and the rumour is spread that it was placed there by Hindus or a booby trap is placed in a temple, and rumours are spread that it was by Moslems. It is an old, time-honoured device.

We have gone into this matter objectively and scientifically. The Jammu and Kashmir Government, which is responsible for law and order, has arrested a number of persons who were engaged in this traffic. Some of them are Pakistan intelligence men and some of them are our citizens. They have been prosecuted by the State Government, and their trial began yesterday morning. Some of these accused made statements before the district magistrate; they have turned "King's evidence", as it was called in the days of the British. The trial will take place publicly according to the procedures of law, and the principal person is a young man of the kind who usually engages in this kind of crime, a neurotic. He had a love affair with a girl and wanted to marry her. The Pakistanis traded upon that, and when he went over, he was taken to Rawalpindi on the day of an important meeting. After the meeting he was introduced to some of the participants. He was called by Sajwad Khan, who is a Pakistan security officer, and taken to the Foreign Minister, who exhorted him to do the work that had been entrusted to him and who promised him all help. I make, this statement with all sense of responsibility. Sajwad Khan, who is the main operator in this matter, told him that his business was to create unrest in the political parties in Kashmir and to create Hindu-Moslem difficulties. This man came back to India after his visit, still hoping to marry the girl, and he brought a lot of money with him. He crossed the cease-fire line from time to time. (That often happens because we cannot cover the whole of this territory with twenty-eight observers of the United Nations.) He obtained instructions and returned to Srinagar, where he communicated these instructions to others and and carrid out those instructions which were intended for him.

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In June 1957, a Pakistan messenger brought a message that it had been decided to use bombs on a large scale in Kashmir, and the accused confessed that the places to be bombed—and, after all, this was proved by the incidents—included a cinema, a hotel, government offices, and important bridges. Three bridges were saved by members of the Indian Army, who detected the bombs in time and removed them. On 25 June, this messenger was accompanied by another man who brought two types of bombs, a "white brick" type and a special package containing explosive powder. These bombs are not amateur improvisations of any kind. They are booby trap bombs with a hand-grenade type of detonator inside. The bombs are tied up by rope, and if any person thinks there is something inside and unties the rope, then the lid comes up and the bomb explodes. That is now it is done. All this material has been collected by our Army and police and has been sent to our armaments inspectors, and carefully examined. We have the numbers, the makes and everything else concerned with them. With the help of two visitors from Pakistan, bombs were planted under bridges, behind the Palladium Cinema and in a hotel. This person was arrested on 27 June. The police recovered from his house a bag containing explosive powder, together with fuses, time pencils and detonators. The time detonators used can only come from army stock; they cannot come from anywhere else. The police also seized a large number of letters which he had received from Sajwad Khan, and we have photostatic copies of these and of other evidence.

With regard to subversion, the Government of India has strenuously taken care not to allow this thing to become an Indian-Pakistan hatred campaign. It has carefully played the matter down, but, at the same time, it has made a very careful investigation. Examination of the stores used in the incidents that have occurred, the methods adopted and the necessary training involved in implementing the bomb technique make it apparent that Pakistan army authorities are actively supporting this sabotage, to put it very mildly. The stores used in the sabotage are all controlled stores, charges of army origin of a type which are issued on a strictly restricted basis, even to their own army units in Pakistan. The stores are not available in

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the open market. The techniques adopted in all known cases point clearly to instructions given by expert army engineers and officers. In their confessional statements, some of the arrested persons, including Pakistan agents, have disclosed that they are sent, equipped and trained by by Pakistan security officers for the purpose of creating disorder, disturbance and communal trouble. In addition to these explosive devices, considerable sums of money are known to have come from Pakistan, as has published material for propaganda. We have intercepted some of the money.

But this campaign has not had much effect in Kashmir. There has been no panic in Kashmir. There has been individual loss of life, but the great catastrophe, as I said this morning, was the flood, which has been a kind of left-handed blessing in the sense that it has demonstrated that there is no background for this kind of thing in Kashmir. The people are extremely resentful, and the foreign press, of which there are many correspondents in Srinagar, have not failed to notice this.

The *News Chronicle* of London, again critical of the Government of India, sent the following report :

> "An unofficial cloak and dagger movement has been launched inside Indian Kashmir by fire-eating General Akbar Khan, a veteran of the 1948-1949 Kashmir war days. Pakistan's bouncing little (five feet, three inches) Prime Minister Suhrawardy badly needs another success over Kashmir to counteract the internal distress and to bolster up his position. Mr. Suhrawardy's patience and perhaps his time are running out. Does his tacit encouragement of General Khan's subversive movement suggest that he intends to have Kashmir by fair means or foul ?"

At the 795th meeting, I read out to you other statements expressing the idea : "We must have Kashmir or we die...We take it whatever happens." There is a similar quotation from the *Manchester Guardian*, whose correspondent lives there : "Mr. Suhrawardy may feel his own position requires him to make some dashing moves over Kashmir."

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We are not entirely taken by surprise in this because, first of all, this is not the first time it has been attempted. This is the same exercise as the one which started the invasion. The only difference was that the invasion, being a Pearl Harbor business, came in large waves of marauders in the beginning. In the period that followed, in 1950 and so on, the Security Council has often been invited to examine this question, but not in that very pointed way. But India communicated its concern to the Commission, as appears from the summary of a meeting held at New Delhi on 17 August 1948, in which the Prime Minister stated the following :

> "The Prime Minister reiterated his fears of possible infiltration with or without the knowledge of the Government of Pakistan and mentioned the strategic points previously enumerated to the Commission which the Government of India considered that its forces must hold in order to ensure the security of Kashmir." [*S/1100, annex 12, pp. 103 and 104*].

Secondly, in its third interim report, the Commission stated that :

> "India...believed that measures taken by Pakistan such as the construction of roads and the provision of arms and supplies to points like Skardu could, in the view of India, mean only that Pakistan did not wish to withdraw from the territory or, after withdrawal, intended that those who stayed behind could create turmoil."

Sir Benegal Rau, a distinguished member of the Security Council for some time and a judge at the International Court of Justice, speaking before the Security Council on 7 February 1950, stated as follows :

> "Now, let us see what happened during this period in June and July 1948. I read in paragraph 7 of the same annex [which is paragraph 7 of the appendix to a letter

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from the Pakistan Minister for Kashmir Affairs to the Chairman of the Commission] that a contingent of 400 so-called volunteers from Chitral go and bsiege Skardu, while the Skardu forces go and besiege Leh. All this happened under the auspices of the Pakistan High Command. These are not tribal incursions; they are incursions by so-called volunteers from one part of the State into another part—volunteers recruited and organized by Pakistan authorities. Unless this process is checked, it will go on as in the past and no part of the State will be safe from infiltration and attack. India cannot afford to take this risk." [463rd meeting, pp. 16 and 17].

That was seven years ago. As in the past, Pakistan will deny publicly all these allegations and will probably say that the proceedings of the tribunal were whatever they may like to say about them. But the clauses of the law in the Union of India are those that we have inherited from the British system. The rule of law prevailed at the time of independence, and since independence we have separated the magistrate from the executive. There is no control by the executive. over the judicial magistrate today. (It is one of the demands that we made of the British Government forty years ago.) These independent magistrates are the people who are trying the accused.

Therefore, what is happening is not genocide by us, but the organization of the murder of our people by a neighbouring Government which ought to be friendly to us. It is difficult to understand how a civilized Government which claims the attention of the Security Council and which invokes the United Nations Charter, can use means of this kind, about which we have no doubt whatsoever, because we have the evidence. We have the records in this matter and we have the evidence of the people. I myself have seen the damage that has been done. There cannot by any slightest doubt. I have before me a whole list of these incidents and full particulars, but I shall not weary the Council with all of it.

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It may be that through all the tumult that has taken place in the world and all the horrors which we went through from 1935 until the termination of the Second World War, perhaps mankind has become accustomed to cruelty on the one hand and to lawlessness and subversion on the other. But we are a new nation and a comparatively weak country. We want to retain our independence and we want to remain in peace with our neighbours if we can.

On the other side, a few days after the previous series of meetings we had a statement of the Pakistan, Prime Minister, and a few months later we had all this undeclared war of subversion and violence and sabotage aimed at trying to destroy life and property and the results of the labours of our country. It is easy to cross the cease-fire line. It is miles and miles long, and 500 yards on either side cannot be patrolled by the military under the agreement. This allows for a great deal of freedom for infiltrators. We are faced with this difficulty and we want to deal with it as mercifully and as gently as possible. It would be wrong to turn out one refugee in the fear that he might be a criminal. We could probably stomach some of those and find them out afterwards. That is the position.

I want to inform the Security Council, as the representative of Government of India charged with this matter and as the Defence Minister of my country, that a new wave of aggression has come. On the one hand, I should remind the Security Council that the condoning of aggression, the finding of ways of just letting things slip by or of having no moral judgement on this matter because of our desire for tolerance and our desirs to settle this matter peacefully, would be in error.

Secondly, subversion once begun knows no bounds. On 10 October 1947, the frontiers of Kashmir were pierced by the marauders of that time. Mojor General Scott reported to the Maharaja that the country had been invaded. During the next few days, as I told you at the previous meeting, some of the most gallant officers of the Kashmir State Army, including

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Brigadiar Rajendra Singh and his small band of 200 people, were cut to pieces. But they managed to hold back the invasion. The Indian army arrived by what a Canadian described as the most marvellous of operations, by air-lift into Kashmir, pushed back the marauders and finally turned the tide of the invasion a few weeks later, when the retreat began and when we pressed our efforts in the Security Council for a cease-fire. That is the position.

In addition to the facts which I have given, I should like to place on record that the Government of India has, with all its sense of responsibility and with all the background in which it has treated this question, once again informed the Security Council that not only does aggression continue but that a new wave of aggression has begun. It is for the members of the Security Council, whatever their countries may be and whatever their political alliances and allegiances may be, to consider what attitude or action, collectively or individually, should be taken on their part.

The Government of India stands by the statements that it has made. What I have presented has been a closs understatement of the facts. We are fairly sure that there will be no panic in Kashmir because the people are as contented as they can be in our part of the world. There is work to do and, what is more, ten years is too short a time in which to forget the pillage, the plunder, the arson, the looting, the rape and the brigandage which took place when Baramula was sacked and burued and when the invaders were turned back by the Indian army. When I say the Indian army, the fighting Kashmir Militia should not be forgotten, men who in those days were fighting in rags.

Now I come to the proposals made by the Foreign Minister of Pakistan at the 791st meeting. If they had not been made before the Security Council, I think the correct treatment of these proposals would be to ignore them. But while that would be legitimate in regard to the originators of these proposals in the context in which they are made, it would hardly be courteous to the Council. What is more, we have no desire to run away from any of these things. We are quite

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sure about the morality, the legality, the political rights, our rights under the Charter and our obligations to the United Nations. What is more, I would like both the countries of the East and the West to remember the contribution that the removal of these difficulties will make to the stability of the area as a whole.

The first of these demands made by the Foreign Minister of Pakistan is :

> "[It is, therefore, urged] that the Security Council now proceed from the stage where it left the dispute on 23 December 1952 and take positive steps to bring about demilitarization so as to ensure that a plebiscite takes place in the State as envisaged in its earlier resolutions." (*791st meeting, para. 77.*)

In other words, what it means is that Dr. Graham or his successor may take over where they left off. But it is forgotten that since then there have been direct negotiations between the two Prime Ministers and, totally contrary to what the Council was told by the Foreign Minister of Pakistan previously. These conversations were not terminated by us, but by the Prime Minister of Pakistan. We have always held the view that whatever the difficulties are, whatever may be the legal or illegal basis, it is only by negotiation, by conciliation between the parties concerned that we will get anywhere, unless it is a juridical issue.

Mr. Khan Noon told the Council that Pandit Nehru broke off direct talks in 1953. But what actually happened, and this appears in the records, was that on 21 September 1954, Mr. Mohammed Ali, the Prime Minister of Pakistan, said in a letter to the Prime Minister of India :

> "In the circumstances I am bound to conclude that there is no scope left for further direct negotiations between you and me for the settlement of this dispute. This case therefore must revert to the Security Council."

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To which my Prime Minister replied on 29 September 1954 as follows :

> "So far as my Government is concerned, we are anxious and eager to settle this problem once for all, and we can conceive of no method of settlement except that of a peaceful negotiation···I would again urge you to consider this matter dispassionately and to come to the conclusion, as I came long ago, that we can only settle our disputes between ourselves and by peaceful methods of negotiation, however long they might take. Peace is always better than conflict and the peaceful approach is always to be preferred to one based on military power."

It is for the Security Council, in the light of this exchange of correspondence, to make up its own mind as to what attitude was taken by each of the parties in this conferece. I already mentioned this morning that while we have great respect for the personality of Dr. Granam and for his painstaking labours, our position in regard to the great many negotiations was that they were exploratory in character in the context of the time, when we still believed that Pakistan would implement part I of the first resolution and proceed to part II.

The Commission itself has said that there is no simultaneity in these things. The first obligation lies on Pakistan. It has been put down in so many words, and if in any explanation we have tried anything else, that is generosity on our part. As far as we are concerned this is part of the history of the case.

The next demand deals with the fact that :

> "...this dispute now clearly involves a threat to the peace, and falls under the provisions of Chapter VII, Articles 39 and 41 of the United Nations Charter." [*791st meeting, para, 78.*)

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If I had the time, I would like to argue the law on this. But, first of all, this is not a dispute. When a country invades another, it is not a dispute; it is aggression; it is a crime which the Security Council must get rid of by one means or another. This means that what we invoked with you was conciliation. So we are the complainants in this matter, and the only contribution that Pakistan made at that time was a denial of our complaint so far as Kashmir is concerned. But now we are told : let us forget that there is a dispute. But in terms of the Charter, it is at no dispute: it is a situation created by the aggression of Pakistan and the latter's occupation of a part of the Union of India. The Foreign Minister of Pakistan says that it involves a threat to the peace and falls under the provisions of Chapter VII, Articles 39 and 41 of the Charter.

Who is threatening peace ? Is it usual in this Council for the aggressor to come and say: I have committed and I am about to commit an aggression, and therefore stop me. That would be a clever act, and it might be a good thing to do it. But who is threatening peace ? Are we being told that if we do anything, we are going to commit aggression ? The idea is to try to pin it on us. This cannot fall under the provisions of Chapter VII because the Kashmir situation is under Chapter VI, and we have asked for conciliation.

It is first of all for the Security Council to make up its mind on whether Pakistan aggression is to continue, not merely because of what has happened. I have detailed out to you, paragraph by paragraph, item by item, phrase by phrase, what is happening in Kashmir. What is more, I drew attention to the plight of those million people who are under the occupation of Pakistan. What happens to the prestige of the United Nations in parts of the world where it may well be believed that there is one law for one country and another law for another country ? "This dispute now clearly involves a threat to the peace." If any peace is going to be threatened, that threat will come from Pakistan, and it is entirely up to other Members of the United Nations to charge them with further aggression.

Whether the Government of India would desire to do so

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or not, I at present have no instructions. But the first thing we will do in a threat to the peace of our country is to try to defend the homes of our people. Let there be no mistake about this. I have said this repeatedly to you, and at this time it is my responsibility to reiterate that any aggression on Indian soil, from Cape Comorin to the Himalayas by whoever it takes place, is an aggression against the whole of India. We cannot have our homeland invaded once again. Therefore, this is a statement which I have to make to the Security Council in conformity with the Charter, in conformity with the self-respect of the Indian nation. This is what you would expect me to say. We are not willing to condone, to promote, to permit or even to acquiesce in further crime.

Therefore, if Article 39 or Article 41 of the Charter to be invoked, there must be a complaint of aggression, and the aggressor party being still there, how can there be an aggression against them? The removal of an aggressor is not aggression. I have not said anything about the removal of an aggressor; I have asked the aggressor to remove himself. I have told the Security Council, on behalf of my Government, that while our rights, legal, moral, political or international—anything you like—are entirely wholesome and sound in regard to the 42,000 square miles of territory that have been occupied and annexed by our neighbour, we have at present no intention of settling this issue by force of arms, any more than we have in the remaining parts of the colonial territories in India. We have achieved our freedom in the past by other means and we hope that we shall be able to do so in this case also, and ultimately those who are under suppression will shake off suppression. Therefore, we have no desire, we have no intention and we have no plans of launching aggression upon anybody. But it is one thing to launch aggression; it is another thing when, with all the panoply of war—and we shall refer in a moment to the military strength of Pakistan—that is turned against us. Therefore, that is the position with regarn to the two Articles of the Charter; the Pakistan suggestion, if I may say so, comes from a wrong reading of the Charter, or is probably a try-on, or whatever it is.

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Then Mr. Khan Noon says :

> "...I would urge that all troops, whether of India or Pakistan, should be withdrawn from the cease-fire line and a United Nations force be stationed on the cease-fire line to prevent any violation of the line." (*791st meeting, para. 79.*

First of all, there are no troops on the cease-fire line. There are twenty-eight observers who are permitted to go to the cease-fire line. No military personnel, unless they are doing it clandestinely, can be within five hundred yards of the cease-fire line. That is why there is so much crime there. They ought to put on policemen there. Therefore, to say that these troops should be withdrawn from the cease-fire line is either to display ignorance of the facts as they are or to mislead the Council.

Secondly, the Foreign Minister urges the troops to be withdrawn presumably as part of the Governments' collective responsibillty. He has authority over his own troops, and they could all have been withdrawn during the past ten years. So far as we are concerned, our troops are in the territory of the Union of India. The Indian Army, the Indian Air Force—the Navy does not come into this—are entiled to be stationed or deployed anywhere in consonance with the principles of the Charter on the territory of India. But there has been no accentuation of military strength in Kashmir or the building of any strategic or other establishments. We have no intention of doing so. We are still relying on the Security Council and the United Nations to vindicate the Charter, and we are pretty well committed to that.

This is the operative part of the third proposal: that a United Nations force should be stationed on the cease-fire line to prevent any violation of the line. I submit that the cease-fire line is in the sovereign territory of India. It is not a political boundary. It is a demarcation of convenience by us in order to stop bloodshed.

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The Pakistan Government adds to its acts of aggression by inviting other countries to place their troops on the cease-fire line, because it is not its country; it is ours. A United Nations force which would go on the cease-fire line or into Pakistan-occupied Kashmir would be setting its foot on the sovereign territory of India. Neither the Government of India nor the public opinion of India nor any responsible person in India will ever subscribe to the sending of foreign troops to Indian soil. We have had enough of them. In no circumstances will we permit the occupation of our country by foreign troops.

What is required is not the occupation of the cease-fire line by a United Nations emergency force, the creation of which is sought for this special purpose, thereby solidifying this issue as though it was a dispute between two countries over a partitioned country, but the vacation of aggression, to which I shall come in a moment. This is our position with regard to a United Nations force.

There has been some criticism in the Pakistan press about a statement made by my Prime Minister that we would regard the participation of any friendly nation in any such attempt or the offer—they cannot participate without our consent—of any nation to participate in this foreign occupation of our territory as an unfriendly action. We have been criticized for that, but we stand by that statement. We think it is an unfriendly action to send troops to friendly countries. Nobody is seriously violating the cease-fire line. There have been violations by either side such as cattle stealing or something of that kind. In this wild country, you cannot do anything about that. But there are other violations, big violations, like the Nekowal incident where Pakistan first admitted guilt, paid compensation and afterwards said that the payment was *ex gratia*; it was never reported to the Security Council.

So that any idea that the Council knows about the violation either of the cease-fire line or the cease-fire action in the occupied area at the very moment of the violation is a great mistake. First of all, the machinery that these people have is

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not capable of taking account of violations. I will give you one example. The Pakistan Air Force, with its new Sabre jet planes, is repeatedly violating our air space. The planes fly at twenty to thirty thousand feet high in the clouded regions of Kashmir. All you can see is the jet stream and nothing else. We are not equipped to chase these planes, and we have no desire to engage in aerial combat. What is more, in a few seconds they may be in Pakistan territory. This hit-and-run business is not either a constitutional or a decent action. There have been many violations of our air space which we have reported to the United Nations observers. But the observers are in no position to record a violation because they cannot see the markings. There is no radar or other equipment. Therefore these violations, which have occurred so often, have to stop. I shall give as an authority the British Air Vice-Marshal who recently commanded the Pakistan Air Force.

The final proposal is an alternate to the first one. It is as follows :

> "...the Government of Pakistan would be prepared to remove immediately every Pakistan soldier on the Pakistan side of the cease-fire line provided a United Nations force, strong enough to defend these areas and ensure their integrity, is stationed beforehand along the cease-fire line; and provided that India reduces its own troops the level prescribed..." [791st meeting, para. 79].

First of all, no levels have been prescribed except contingent levels on certain conditions. But over and above that, we are not prepared, and I hope the Security Council is not prepared, to accept the position that one Government is giving or ers to another Government as to where its soldiers should be and what provisions should be imposed. Therefore, this alternative is really not an offer to withdraw troops at all.

That takes me to the final part of these proposals. I do not have copies of this map in my hand, but I hope some people will look at it. This is the frontier between Pakistan

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and India stretching along Kashmir. A great deal of play is made by some of our friends, who ought to know better, to this effect : If Pakistan withdraws its troops, what will India do ? To what point or points does Pakistan withdraw its troops ? I will turn to the Pakistan Army in a moment. Pakistan could withdraw them to Peshawar, which is 105 miles away. That probably takes fifteen minutes in their jet planes today. Another place is at Lahore, the capital, which is seventy miles away. Sialkot is six miles from our frontier. Jhelum is four miles away. Rawalpindi, one of the main military concentrations, is thirty-one miles away. Murree, another military concentration, is fifteen miles away. Abbottabad, another military concentration, is sixteen miles away.

In undivided India, owing to the situation that existed on the north-West Frontier at that time—those were the days of the martial race and non-material race and what not—there were a large number of recruits to the British Indian Army from this part of India and a great many of the encampments of the Army were located in the north-western part. We are not suggesting for a moment that Pakistan has created all the encampments and cantonments in these places, but that is the natural centre, the stronghold, of the Pakistan Army.

If they should withdraw to Jhelum, which is four miles away, they could come back before you count to two. Therefore, such a withdrawal has little meaning to us. We shall have to explain to the Security Council as best we can what is meant by the withdrawal by Pakistan from Jammu and Kashmir. But I would like this to be made clear—that the withdrawal of the foreign army of occupation from these areas right to their barracks does not mean anything. The farthest distance is 105 miles and the nearest is four miles. The majority of them are between fifteen and thirty miles. It is there that all the main military installations, the barracks, the establishments, down to the Air Force areas are situated.

I cannot leave this section of my submission to the Security Council without dealing briefly with the practical implications of the present situation. I entirely agree with respect with the Foreign Minister of Pakistan when he said either here

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or in the General Assembly, "What business is it of India how many troops we have or from where we get military aid ?" Within limits, one agrees with that. But it is one of the things we have to take into account. It may be that one is not able to send a doctor to a neighbouring house where there is typhoid or Cholera. But still one must take account of the fact that neighbour is sick and that the sickness might spread. Therefore, we have to look into the accentuated military strength of Pakistan.

When the British left India and the partition arrangements were made, a certain equilibrium and certain proportions were established. It was part of the general arrangements. But since then there have been considerable changes in regard to the Pakistan Army. In 1947 at the time of partition the Pakistan Army had forty-five infantry battalions. Today, in 1957, they have fifty-eight infantry battalions streamlined from sixty, which they had before. In 1958, they are supposed to have—and I think they will have—sixty-seven infantry battalions. Evidently they have a considerably larger force than India has.

In the so-called "Azad" Kashmir force, there are today twenty battalions. (The former thirty-two battalions were trimmed down to this number.) They are equipped not only with rifles and Bren guns, mortars, hand grenades and revolvers, but also with anti-tank weapons. I would not like to read the details of these weapons on account of their origin. There are medium machine guns, rocket launchers and everything else in "Azad" Kashmir where you are supposed to have local authorities running a *panchayat*. Our people have also noticed the presence of forty-milimetre anti-aircraft batteries in Pakistan-occupied Kashmir.

The additional equipment raises the position of the "Azad" Kashmir Army to the level of regular Pakistan infantry units. Over and above the infantry units of Pakistan, their armour consisted in the past of six regiments, which are now ten regiments and are to be increased to thirteen regiments next year. These thirteen regiments comprise ten armoured regiments and three light-armoured regiments. The

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ten armoured regiments are additional to three armoured brigades of the Pakistan Army, which are the Third Armoared Brigade, the Fourth Armoured Brigade and the 100th Independent Armoured Brigade. I do not want to bother you with these details.

Then we come to artillery. It was suggested the last time in Security Council that these soldiers, these men of "Azad" Kashmir, have light arms, something of that kind. But they have heavy artillery. The Pakistan Army at the time of partition had eight regiments of artillery, which become eighteen regiments. Now they number thirtytwo regiments, and next year they are supposed to number thirty-seven regiments.

That is the regular army of Pakistan, which unless the soldiers are on holiday, as they were in 1947, can be identified as troops. But there are also irregulars; we have no irregulars. The irregulars of Pakistan are Pakistan National Guards, formerly forty battalions, or approximately 32,000 men, but now increased to fifty-seven battalions. Then there are the frontier forces, partly to deal with us and partly, I suppose, with the recalcitrant tribesmen. There are 21,000 of them. There has not been much change in the constitution of those frontier forces, largely because I suppose the Frankenstein they have created of 200,000 men may work both ways. But that is the size of their army. In addition to all this there has been considerable new equipment, which has come from various sources, such as recoilless rifles. Again I do not want to read the specifications. The "Azad" Kashmir battalions are not only reorganized in regard to their infantry divisions but also in regard to their armoured regiments. There is no need in this discussion to go into questions of the Pakistan Navy.

I could give very much more information about this, especially in regard to the amount of stategic construction and the induction of personnel and the schedules which go with that, but I cannot do that without disclosing names of weapons.

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The Air Force of Pakistan, which is a menace to the safety of India, formerly consisted of small attack planes. Today we understand that by October of this year it will have seven squadrons of Sabre jets which will probably increase to fourteen by March, and since just before I left India an even better version has appeared. Therefore the air strength of Pakistan is considerably higher than that of India. I have no objection to saying this; we are not competing with them. It is higher in transport command and in fighter and bomber strength. The Pakistan Air Force is infinitely superior to anything there is in that part of the world. That is not to say that everyone who gets into a plane will be able to use it, but that is a different matter. Work under expert supervision is going on in Mauripur, which is the airport of Karachi, and at Sargodha and Peshawar airfields, and a new airfield has been constructed or reconditioned some seventy miles from Gilgit, where there is independent evidence that jet planes take off and land. I said this last time, but it was contradicted.

A Japanese journalist, Mr. Maruyama, who was a war correspondent on the Burma front in the Second World War, can be quoted. It was on the Burma front that he first met Major-General Kyani who is in charge of Gilgit. Major General Kyani is a very dangerous gentleman; he left the Indian Army and joined what was called the Indian National Army; now he has found other adventures in Gilgit. Mr. Maruyama said that he learned from Major General Kyani that the airstrip at Gilgit was not well developed, but some jet planes were seen there during his four-day visit. Mr. Maruyama's impression was that there is an airport not more than seventy miles from Gilgit where jet planes land and take off. No foreigher is ever seen at Gilgit but Major General Kyani told the correspondent that a team of expert military engineers had visited it last month. They are trying to build a road from the Hazara district to Gilgit in the Frontier Province. The local population of Gilgit, he added, was hostile to Pakistan mainly because of the food shortage.

I would tell my distinguished colleage the representative of the United Kingdom that if those British journalists who

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have been to Gilgit, including the British Broadcasting Corporation correspondents, would tell the honest truth, he would hear a great deal about the conditions of living in Gilgit. The Gilgit Scouts, about 10,000 strong, are poorly paid and ill-clad; the three battalions now stationed in Gilgit will soon be strengthened by another two battalions. Pakistan feels that in the event of war Gilgit is the weakest spot. The correspondent was not allowed to visit the border areas of Pakistan and Kashmir. I have read that out, because that is independent evidence from a Japanese journalist who was a war correspondent.

I have made references to violations of air space It is quite right for the United Nations observers to tell us that we have reported a violation but have not told them the number of the planes or given their markings and that they might be anybody's planes. But they could not be ours, and I do not suppose that any country in the world would want to violate our sovereignty. To suppose that would not be right in regard to other people. But here is first-hand evidence and it comes from no less a person than the retiring Commander-in-Chief of the Pakistan Air Force. He happens to be a friend of mine. He says :

> "On the transport side, Pakistan Air Force squadrons have been operating for several years with a degree of regularity and freedom from accident which compares favourably with those of other military and commercial transport services. This is all the more creditable in view of the fact that a considerable portion of Pakistan Air Force transport flying involves regular penetration of mountain ranges containing some of the highest mountains in the world."

You can look and see where that is ; nowhere in the world are there more difficult flying conditions than those, and we can subscribe to that, but there is direct evidence of the violation of the air space of Southern Jammu and Kashmir on the frontiers of India, China and Russia.

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I have therefore answered the four demands made by the Pakistan representative, and there is nothing new in them. All of them are violations of the Charter and the fourth is more than a violation of the Charter. It attempts to tell us where to put our troops.

What is our position in this matter? It is that there is a situation and we would like that situation to be settled, today, tomorrow or a hundred years hence. We do not want a conflict of any kind, but if we are attacked, meek and mild as we are, even the worm may turn. We have no intention of submitting ourselves to aggression and we should like the military allies of Pakistan to know that if we are hurt by the latter they will bear a degree of responsibility, especially in view of the statements I have read out in regard to participation in the South-East Asia Treaty Organization (SEATO) and other agreements, since these statements indicate the political view of Pakistan as expressed by its responsible statesmen.

Our position, therefore, is that while we will not at any time submit to a surrender of sovereignty of any of this territory, we shall still place reliance on conciliatory counsel and the public opinion that emanates from this body to show that aggression is wrong, that Pakistan has no business whatsoever on the territory of Jammu and Kashmir, which is a part of the Union of India. If Pakistan or anybody else has any question about the legality of the accession or the political integrity relating to it, they should settle it some other way. But whatever that may be, so far as we are concerned Jammu and Kashmir is as much part of India as Bombay or Bhopal or West Bengal or any other part. At the same time. I want to state clearly, though it does not clearly relate to this matter quite so much except by implication, that neither public opinion in India nor responsible people nor the Government have any desire whatsoever to bring about any changes which can always be put out as propaganda against us, any changes in regard to the partition.

Pakistan is a State that was created as part of the price we had to pay for independence and a peaceful transfer of

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power. We wish them prosperity. We do not want any of their territory; we will not give any of ours to them. Therefore, we say that while we shall be peaceful and listen to any counsel of conciliation, we cannot be expected to swallow this aggression and sit down under it.

If the Security Council did not take serious notice of what I have said just now, would not the Security Council bear some responsibility, if what has been happening in the last three or four months were to develop into a much larger scale affair and if there should be disturbances in that part of the world which, apart from everything else, would take away the energies of our people from the peaceful revolution of the countryside? Our people starved yesterday as they did before. We are anxious that where one ear of corn grew yesterday there should be two today. We are anxious that our industries should grow. We are anxious that there should be relations, with Pakistan of a rather different character. We are anxious as far as we can and as far as necessary for us to shoulder the burdens that must come to every sovereign State in regard to its international obligations. We therefore propose to do nothing that will aggravate any situation, but equally we should not be expected to take any further kicks.

We therefore request the Security Council to demand the vacation of the aggression by the regular and irregular troops of Pakistan. The United Nations Commission for India and Pakistan has laid down that Pakistani troops are not only regular but irregular as well. I do not want to go into all of it again, but the Commission itself has pointed out that at the time when the resolution of 13 August 1948 was passed there was no evidence and knowledge that there were Pakistan troops not their areas. But as far as "Azad" Kashmir was concerned, hat pattern was never communicated, and it went on to say that a material change had taken place. If that had been known, the position would have been different.

Sir Owen Dixon's dictum has been brushed aside on this matter, if I may so, with scant courtesy to the Australians because it was said that Sir Owen said this in order to please

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the Indians. But Sir Owen Dixon's general approach to us may not have been as friendly as we would have wished; but he did say this; that when the Pakistan troops crossed the frontier they committed a breach of international law; that is saying they committed aggression.

We therefore demand the full vacation of this aggression by the troops of the Pakistan army, regular and irregular, those who are directly called the Pakistan army and those that are the subsidiary forces under them. That means that there should be, as the Commission promised us and as it written down, the total disbanding and disarming of the "Azad" Kashmir army, the evacuation of the northern territory and the restoration of it to the Jammu and Kashmir Government, as stated in the Commission's report. There should be the taking away of war material and the dismantling of all establishments. India should have some assurances—I would like to use this mild word, but I could have said guarantees—that our neighbour will not permit the passage of hostile elements across its territory. In the normal course of the practice of international decency, the Union of India must have some assurance from its neighbour, with whom we desire to remain friendly, that across its territory no hostile elements will pass into our country. It is the duty of every independent nation to see that no troops or hostile forces cross its own country. No other country permits it.

Equipment has been introduced in the Pakistan-occupied area, as I said, since we signed the cease-fire resolution of 13 August 1948. It ought to be removed We do not say it ought to be destroyed, which I suppose is the right thing to say. But it ought to be removed. It is not Pakistan property. It is a danger to us, but still we are prepared to go so far. All military installations other than those existing before 13 August must be dismantled. The northern areas should be fully vacated, as envisaged by the Commission's report in the earlier period, and the administration restored to the Government of Jammu and Kashmir, according to the Commission's own views. The war that has now been unleashed again of subversion, bomb outrages, sabotage, infiltration and murder should

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cease. Unless there is some indication that this will happen—in view of all the evidence which stares us in the face and which will come out in the law courts, even if we want to be submissive, our public opinion will not stand for it. We will not stand for the spoliation of our country once again. The war of subversion must therefore cease. Any assistance, financial or otherwise—and I gave you evidence of all this—by Pakistan to infiltrators, saboteurs, stool pigeons and agents of various kinds should cease immediately. There should be the restoration of relations between friendly countries.

We would request, as we cannot demand, assurances directly to the Government of India by those countries which are military allies of Pakistan, that any military assistance given to Pakistan will not be utilized in or against the territory of India. The United States, so far as we are concerned, has given us this assurance and we have accepted it, irrespective of the risks of consequences that may arise, because guns that fire in only one direction have never been made. But it is only right that the military allies of Pakistan should tell it that whatever the nature of those alliances they are not part of its aggression projects. With regard to the airfields, they come under the same category as the military establishment that exists over there.

In the discussions with Mr. Lozano in regard to the protection of India, the Commission conceded to the Government of India that it might protect and garrison the points on its frontiers in case of any infiltration or threat to the security of the area. In view of the subversion that has been going on then it is necessary that checkposts and sensitive points should be guarded. India would therefore be entitled and would like to assume its responsibility of protecting the frontiers of the Union.

The time has come for us to move the necessary garrisons into these checkposts so that our frontier, our international frontier, not only with Pakistan, but with the rest of the world, may be properly guarded. After all, we have checkposts in over 3,000 miles of our frontiers, with China and

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ourselves, with Burma and ourselves and everywhere on our frontier. But over and above all this, there must be, in our submission, if aggression is to be vacated, full compliance with part I, paragraph E of the resolution of 13 August 1948. There is the incitement on the one hand, threats on the other and statements of the kind from the Pakistan Prime Minister which I read out just now, the general hatred campaign that goes on against us. The remedy in regard to this cannot be found in the statement made by Mr. Khan Noon (*791st meeting, para. 13*) that the Pakistan Government was only asked to make an appeal. It is the responsibility of a sovereign Government to see that in the conditions that exist, this kind of *Jehad*, holy war, psychological warfare, which in Pakistan cannot be carried out without the permission of the Government or without its aid—should cease.

It was not my intention to detail this in this way, but so many members of the Security Council had asked me to spell out what we mean by vacating an aggression. The vacating of aggression is a simple phrase. The Union of India is sovereign territory, as is the territory of all your countries. I would ask which of you representatives would permit the occupation of your territory, especially when that occupation has come about, if I may say so, as the result of a conciliatory approach on our part by withdrawing an advancing army and drawing a cease-fire line in order that a peaceful settlement might be reached. Therefore, Pakistan has to take itself off in this way, and proceed to the liquidation of its annexation, "de-annex" these territories—because what the Commission has said is that there is no "Azad" Government in the Commission's scheme—there can only be local authorities, to whose aid for the maintenance of law and order it is the duty of the Government of India and the Government of Jammu and Kashmir to go. The whole of this resolution is cast on the basis of the sovereignty of that Government. There is only one State—the State of Jammu and Kashmir—and not two of them, and therefore we cannot jump this ditch in two leaps. The only way, therefore, is total vacating of the aggression.

We have promised that, under conditions of a fair disposition of this matter, we would go out of our way to

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establish friendly relations with Pakistan and to seek to settle all outstanding problems in the same spirit. But we are not prepared to offer any proposal which in the slightest degree infringes a hair's-breadth of our territory, because that is our national sovereignty, which it is our duty to safeguard and to pass on to succeeding generations.

This is the request of India, and it is a request that can be made to the Security Council with greater force because, since the last series of meetings, the Pakistan Government has aided and abetted aggression, sabotage and violence, has carried on these campaigns in this way, has aggravated the situation, accentuatad the strength of her army and done everything it can to make relations very difficult. What is more, it has fanned the flames of hatred and made this issue one which may very well become a communal issue—not in our country, because our people, whether Catholics or Protestants, Moslems or Hindus, Buddhists or Sikhs, are loyal citizens of our country. India is one part of the world, no less than any other—I will not put it any higher, but no less than any other—where there is freedom of thought and worship and, what is more, as you have heard from these independent sources a degree of to lerance never reached anywhere else in such a short time.

I therefore submit that I have answered as best I can the allegations made by Pakistan. I once again express my regret that my distinguished colleague, the Foreign Minister of Pakistan, who about ten years ago was a compatriot of ours—he was born on Indian soil and certainly has large numbers of friends there—should have spoken of the Government of India as a dishonest Government, as acting *mala fide* or trying to get around things in some way. We are sad about that, but not on our own account, because I feel sure that that kind of obsesva tion about a Government of the character of the Government of India, even though it is mud-slinging, is not the kind of mud that will stick to us. But we would hate to see the hands of our friends remaining soiled for a long time.

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Therefore, while I have no desire even to tender advice, I submit that, if this debate is going to go on, I will have to obtain instructions from the Government of India as to the extent to which I am to sit here in the face of statements which are entirely unparliamentary. In relation to myself, I will make no protest, but, in relation to my country, its honour and dignity, I would be doing less than my duty if I did not ask you, Mr. President, as a French citizen above everything else, to exercise such functions as you may have to see that motives are not questioned or that things are not done which one would not expect to see done to a sovereign State which has come here of its own free will and out of respect for the Charter and faith in the United Nations.

Finally, we ask you : what are we to tell our people, after all these years of patience, when we have tried every possible method and, what is more, even delayed the development of the part of the territory over which we still have control in order that things may be done all together for several years. Are we to deprive those populations that are under suppression both of political freedom and economic development ? Are we to tell the large populations of India, out of which 193 million are politically functioning as voters in our country, with a free expression of opinion, that the Security Council has been stultified in its action in regard to a matter of aggression ? The issue is that simple. No one has ever argued that Jammu and Kashmir is Pakistan territory. There is no part of the world today which is a no-man's-land, which is not under somebody's sovereignty. That is why we are going to the moon. There is not any no-man's-land. Under any system of international law, once there is possession in this way, there can be a change only by two methods : either by war or by agreement. War was tried and, to a obtain extent, the marauders succeeded, trading largely upon our desire for peace and conciliation. There are many in India who regret the day that we did not press our case before the United Nations to a total vacating of aggression long ago. But we still have faith, and without faith one cannot move at all—and it is that faith that we come here for meeting after meeting. It is also in that faith that, even at the risk of trying your patience, one reads out the various

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documents and tries to place before the Security Council what is not a case about Kashmir but, so far as India is concerned, is a case of the invasion of the Indian Union, the security of its territory, the dignity and honour of its people, and the liberation of a million people who are today under suppression.

So far as the United Nations is concerned, the issue is whether agression against the law of the Charter, aggression against resolutions passed by the Security Council, aggression as proved by the facts of the case, is to subsist and only to be the subject of periodic references by the aggressor, as though the poor victim is the defendent. This is a strange set of circumstances. I confess that our ordinary simple folk do not understand this. We come here with a complaint of invasion, and we are told to do this and do that and do the other—whereas the simple problem is the vacating of aggression for the purpose of creating better relations between the two countries and solving large numbers of economic, political, social and other problems, so that peace in that part of the world may not be unduly disturbed by the friction that may exist between the two of us. The common ties that exist between these two countries are not common ties only by association, but common ties arising from the fact that they spring from a common source—the same people, with the same heritage, until only recently the same country. So far as we are concerned, we have never insisted upon a discrimination arising from race, religion, caste or creed. We have no intention whatsoever of transgressing, politically or militarily or in any other way the sovereignty of the State of Pakistan. Even in matters which we have considered somewhat spurious, we have very often entered into discussions and sought settlements by negotiation.

I rest at this stage for such intervention as may become necessary if there are further observations on this matter which call for elucidation on the part of the Government of India.

The Government of India is deeply grateful to Mr. Jarring for his very considerable kindness toward us, and we were very happy to receive him. Even if he is no longer

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President of the Security Council and never wants to hear about Kashmir again, we shall be willing to welcome him or welcome anyone else. But please do not ask us to surrender our sovereignty.

172. *Text of the speech made by Mr. Noon (Pakistan) in the Security Council meeting No. 796 held on 9 October 1957.*

I do not wish to try the patience of the Security Council with another long dissertation on the India-Pakistan dispute in relation to Kashmir. Already, there has been much delay in commencing and continuing consideration of this question by the Security Council. This delay has certainly not been of our making.

The Council has now heard the reply of the Defence Minister of India to my statement of 24 September 1957 [791st meeting]. At this stage, I propose to say only this much to the Security Council : the long statement made by the Defence Minister of India covers familiar ground. It repeats at length arguments which have been heard before by the Council and which have been effectively answered by Pakistan at the Council table. It also contains a number of misstatements of facts, some of which are relevant to the issue before the Council, but most of which have no relevance to the issue at all. I can, if the Council so wishes, undertake a detailed examination of these misstatments, whether relevant or not, and endeavour to state the correct position. But in this matter I would like to place myself in the hands of the Security Council. If there are points which the Council wishes me to elaborate or clarify, I shall gladly do so. But I do not wish to take up the time of the Council with an endless series of relevant or irrelevant charges and counter-charges, which may or may not contribute to the solution of the issue before the Council—namely, the settlement of the Kashmir dispute. I should like to say a few words in respect of one or two points only.

The Defence Minister of India has laid considerable stress on the issue of "aggression". As far as "aggression" is

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concerned, any argument as to which party started the aggression and whether any party has consolidated aggression is hardly relevant at this stage and would certainly not be conducive to a peaceful settlement of the Kashmir dispute, which is all that Pakistan desires. By raising the issue of aggression at this stage, does India seriously wish that Pakistan should again ventilate the question of India's aggression, not only in Kashmir, but also in Junagadh, Manavadar and Mangrol, to say nothing of Hyderabad? If this is India's desire, I can certainly take up the whole question—subject, of course, to the wishes of the Security Council.

The object of the United Nations resolutions on Kashmir was and remains the demilitarization of the State, to be followed by a plebiscite under United Nations auspices, which would secure to the people of the State the right to determine their own future. I need hardly remind the Security Council that Pakistan has already accepted eleven proposals to secure this object, and India has rejected every such proposal. The twelfth proposal, made by Mr. Jarring, has also been accepted by us and rejected by India. I will not enter into an abstruse discussion as to whether Ambassador Jarring's proposal was technically an arbitration or a conciliation proposal; the point seems to me to be little practical significance.

There has been no augmentation of military potential in the State of Jammu and Kashmir so far as Pakistan is concerned. And I think it is admitted by the Indian Defence Minister himself that there has been a reduction in the number of battalions posted in "Azad" Kashmir. The Pakistan General Staff has reported that the Pakistan regular forces and the "Azad" Kashmir forces on our side of the cease-fire line are far less in number than what they were on 1 January 1949. There has been no increase, also, in the number of Scouts in "Azad" Kashmir. I cannot here reveal the exact figures, for security reasons, but they are known to the United Nations observer group, whose business it is to observe and report on such matters to the Security Council.

In regard to the Indian Defence Minister's contention that the accession of the State of Jammu and Kashmir to India

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is final and that Kashmir is an integral part of the Union of India, I would only refer to paragraph 1 of the resolution of 5 January 1949, which has been accepted by India and reads as follows :

> "The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite." [S/1196, para. 15].

The Security Council may wish to ascertain from the Defence Minister of India whether or not he seeks to escape the international obligations to which his country stands committed under the resolutions adopted by the United Nations Commission for India and Pakistan on 13 August 1948 and 5 January 1949.

The Government of Pakistan knows nothing of the bomb explosions and internal subversion in Kashmir other than what we hear from the Defence Minister of India, and has had nothing to do with them. If they have taken place, they are simply manifestations of the increasing restlessness of a subjugated people. Alternatively, they may well be designed to prepare a smoke-screen from behind which India is enabled to make further charges against Pakistan. I have no precise knowledge of the where abouts or activities of ex-Major-General Akbar Khan. He was in any case convicted of conspiring to overthrow the Government of Pakistan, and my Government could hardly employ him for any purpose whatsoever.

The Indian Defence Minister has raised no issues which have not already been dealt with by this Council. Indeed, all has said merely emphasizes the need for rapid action. Let us give the people of Kashmir the earliest possible opportunity to express their will, freely and without fear, as to whether they wish to join India or Pakistan. That is the simple issue before the Security Council. I need say nothing more at this stage. I shall, however, be only too glad to furnish to the Security Council any further information that it may wish me to submit and to answer any question that it may wish to ask.

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The position at this moment is this : The Security Council has before it the views of Pakistan as well as of India. It is now for the Security Council to come to its own conclusion in the light of its previous discussions and resolutions and in the light of the views that have now been expressed before it.

I would wish to reserve the right to speak later, should it become necessary to do so.

173. *Text of the speech made by Mr. Krishna Menon (India) in the Security Council meeting No. 799 held on 5 Nov. 1957.*

Although India is not a member of the Security Council, the President has, under the terms of the Charter and on behalf of the Council, invited my delegation to appear here and to participate in these proceedings. I therefore consider it an honour and a privilege to offer him my country's felicitations on his assumption of the office of President of the Security Council for this month.

This group of meetings of the Council was originally called at the request of Pakistan for the purpose, as we understand it, of considering the report made to the Security Council by the representative of Sweden [*S/3821*]. On 24 September, the Foreign Minister of Pakistan made a statement before the Council [*791st meeting*]. At the end of that statement, we asked for time to consider it. In accordance with its usual practice, the Council decided that both the members of the Council and the parties concerned should have the necessary time to consider the propositions or ideas put forward.

When the Council again convened on this subject, on 9 October [*795th meeting*], I submitted on behalf of the Government of India what we regarded as relevant information, replies to questions which had been posed, denials of affirmations which we regarded as incorrect or misstatements of fact, and points of view which we considered to be legitimate and necessary in view of the duty resting upon us as a sovereign nation and on this Council to defend the Charter.

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On 9 October, the Foreign Minister of Pakistan made a brief reply (*796th meeting*]. So far as I could comprehend it, the purpose of that reply was to state that the remarks made on behalf of India consisted largely of misstatements of facts and to inform the Council that it could expect a fuller reply from Pakistan later. We had hoped that we should have the benefit of that fullee reply so that we could give the Council our own complete responses to it. Unfortunately for us, however, that is not the position today. We make no complaints about this. It is open both to members of the Security Council and to those who are called before it to choose the time for their statements.

I wish only to submit to the Council that the remarks which we shall make today on behalf of India are governed by the basic conditions which brought this issue before the Council; by more immediately, the Jarring report; by the statement of the Foreign Minister of Pakistan, so far as it has gone; and by the statements of the members of the Council who have particigated in the debate, If there should be any further statements which call for elucidation, we shall not only be willing but shall feel it our duty to place such information as we have at the Council's disposal.

At the Couacil's meeting of 29 October, when the representative of France was presiding, I stated the following on behalf of the Government of India :

> "We have now heard the statement by the representative of Pakistan and the statements of members of the Security Council, as far as they are willing to make them now." [*798th meetiug. para. 53*]

I also said that we had listened to the suggestions—or what purported to be suggestions—which had been made. I assured the Council that, in accordance with the usual practice of the Government of India—and, I would hope, of all Governments—we would of course give consideration to any suggestions made in the Security Council. I stated that my delegation wished to reserve its right, in view of the remarks that had been made in the Council, to make detailed replies.

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Here, I wish to say that we are well aware of the different points of view and different interpretations of Governments as to factors of time or space or political conditions. We are even well aware of the views that one Government or another might hold concerning the capacity or the willingness of other Governments to perform. So far as we are concerned, however, we wish to assure the Council that any expression of opinion by any representative of any Government which is a member of this Council is listened to by the Government of India not only with courtesy but with a desire to understand its purposes. Nevertheless, we do not seek to attribute any motives.

In some of the speeches addressed partly to us the hope has been expressed that the parties concerned would take this, that, or the other in good faith. May I say with great respect that this particular remark is not really necessary in our case. We do not question the motives of the Governments which have expressed themselves strongly in one way or another or which fundamentally disagree with the basic views we hold. At the same time, we would be failing in our duty not only to our people and not only to the future of our country, in which we are deeply interested, but even to the Security Council, if we did not even make what might be spoken of in other places as repetitions or speeches that take up too much time of the members of the Council. After all, the complaint is ours. We are the party most affected. We came here because we were affected. We came here because we placed our reliance upon the United Nations Charter and, therefore, we have to give this matter the fullest consideration that it deserves, at the same time trying to conserve both the time of the United Nations as a whole and the patience and energies of the Security Council.

I referred at that time to certain speeches by certain countries in particular. That may have created the impression that some of the representatives were being singled out or that it was a bilateral difference of opinion, or something of that kind. I should like to elaborate on that a little later.

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In the meanwhile, even though it has been said before, after all this matter has been here for ten years, and each time it has reappeared in a different context. Each time, though the parties who take the initiative may be the same, though our basic position has not altered, nor our willingness to accede to counsels of conciliation or our insistence upon what we consider to be basic, namely, the integrity and independence of our Union, the circumstances in which we meet, the factors that are pin-pointed, their bearing upon the situations as they occur in our conntry and the world at the time, are different. All the same, that basic position has a fundamental bearing upon the whole of this so-called problem. Let me therefore briefly state what it is.

First of all, we came here with a complaint under Chapter VI of the Charter. We are the complainants in this matter, if you want to put it that way. We do not ourselves want to put it that way. The party on the other side is not in a position of equality. From our point of view, the party on the other side is the defendant whose action stands to be corrected, and that correction is required has been stated so many times by the Security Council and not least in the resolution of 13 August 1948 to which both Pakistan and India gave their assent at that time and, within the limitations and in the circumstances I have enumerated several times before this Council, by which we stand engaged. The preamble of that resolution stated :

> "Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential...." [*S/1100, para. 75*].

Those conditions still remain, but we came here, as I have said, to seek a correction of those conditions. Who are the "we" who came here ? Kashmir did not prefer a complaint before the Security Council. Kashmir has no internattonal existence. India is a Member State of the United Nations. India is a nation-State, and Kashmir is a constituent part of

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India. We came here to complain about agression, acts of aggression, or the aiding and abetting of aggression on the Union of India. Therefore, the position is, and my Government wants this to be made quite plain, as it was made plain to Mr. Jarring in India, that it is a great mistake to regard this as a dispute over a little bit of earth somewhere.

Where we are concerned about is the integrity and independence of the Union and, therefore, the complaint in this matter is the Government of India. All the requests, admonitions, injunctions, have been addressed to the Government of India. Even when, in certain parts, an appeal had to be made to the local population, it was the Government of India that was called upon to make this appeal; it was no other Government. Therefore, the complainant in this matter is the Government of India, and how does the Government of India appear?

The Government of India does not appear as a protector State. It has not declared that all territories in such and such a latitude are under its protection. The Government of India does not appear here as *amicus curiae*, as though Kashmir had an independent, national entity but was not represented here, and that India was speaking for it in the way that some of us have done in the case of countries which were not at that time Members of the United Nations. We did not come here with a brief on behalf of a country that is outside the United Nations. We came here with a complaint by India on behalf of India in respect of that territory of India which is called Jammu and Kashmir. That vital difference has to be brought home because several misconceptions arise from this.

We came here because we did not want the conflict that had taken place in regard to Kashmir to expand, to become more intensive, or to spread into what might be larger and larger and more continued acts of war. Therefore, in 1947, when the first statement was made before this Council, the representative who occupied the place I now occupy said that India wanted to avoid any action that might lead to it having to set foot on Pakistan territory or that might lead to invasion. It was there to protest its own territory, and he called upon the

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Security Council to lend its strength and its purposes, not in defence of India only, although we have the right to do that as one of eighty-two Members, but in defence of the Charter and in defence of all those things that all of us regard as very im-important and very vital to the continuance of freedom in this world.

We came here, therefore, because of our faith in the Charter. We did not come here looking around to see what was the composition of the Security Council. And I say this, because today it is not even possible to ask about a barrel of flour without saying : "Was this grown in this or that part of the world ? Does it belong to this bloc or to that bloc ? If it is from that bloc it smells bad; if it is from this bloc it smells good." We did not come here as part of one of the rival power blocs. We did not bring this as a cold war issue of any kind. We did not enlist sympathy and support in that way; and while, for a long time, we have been in the company of nations which, in other contexts, are differently aligned, we are in the position of not having an ally in the world. While we have many friends—I hope that all the nations are our friends—we have no allies, military or other. We came here, therefore, on the merit of this complaint, having faith in the Charter and in the responses that independent countries would make, and also believing that whatever decisions were taken, whatever approaches made, would be in terms of Chapter VI of the Charter, under which we came and, what is more, that they would be both extended and bounded—both these points are important to us—by the decisions that are taken. What is more, we have not at any time regarded any assurances given on behalf of the Security Council to us as lightly given.

When we came here our first and foremost consideration was to stop bloodshed in Kashmir. Here were people who, only a few months ago, a few weeks ago almost, belonged—although as subject people—to the same country which political vicissitudes had cut into two separate States, people whose families lived on both sides of the frontier where, in the name of religion, or something else, there were fratricidal strife,

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killings of various kinds, violence in all kinds of ways. Therefore, our first concern when we came here was the cessation of hostilities. Those who, as permanent members of the Council, have been here for a long time will recollect that in the early days of this debate much time was taken in discussing what should come first; the terms of a political settlement, the terms of a further settlement, or the stoppage of bloodshed. I am sure that the representative of the United Kingdom will not mind my saying so, but the representative of the United Kingdom at that time placed less insistence on the stoppage of the fighting; and it was only the earnest pleadings of India, assisted by others—including at that time the delegation of China—who regarded it as vitally important that fighting must stop so that further efforts could be made. When we came, our dominant desire was a peaceful settlement. India was a large country, its peoples of Kashmir were solidly behind the fighting forces—indeed it was their resistance that was able to turn back the treacherous invasion of that country which I have described to the Council several times before. But we did not think that a decision in that way was preferable to some arrangement that could be made in accordance with the Charter, an arrangement which did not militate against our sovereignty, which did not violate the integrity of our Union and, what is more, which did not place a premium upon aggression.

On this last point, in any decision that is made about Kashmir, or rather, since decisions cannot be made, because this must be done by agreement; in any view that is taken about Kashmir, none of us, whether members of the Council or not, can afford to forget the fact that such a view cannot in any way proclaim that the gains of aggression can be capitalized. Although we are still trying to define aggression—as we have been for the last ten years—and have almost given up the attempt, I think there is general consent that aggression is an international crime. We have had instances in recent times where close friends have fallen apart on this issue. On 25 October 1957, the representative of the United States, speaking in the General Assembly, came out absolutely without quali-

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fications and without reserve in saying that aggression, wherever it might happen, would not find his country on the side of the aggressor. The President of the United States, speaking on a previous occasion, said that it did not matter who the aggressor was, it did not matter how close the aggressor was to his own country, it did not matter in what part of the world aggression took place. President Eisenhower said that in 1956.

That is our position with regard to aggression and, therefore, if we take the time of the Council in dealing not with principles, not with slogans, but with facts that are contained in recorded decisions of the Council—and we do not ask anybody to draw ihferences; we ask you to look at the decision of the Council as made, or the basis on which the Council has made certain decisions in going into this question of aggression and the nature of this problem before the Council—I hope that the Council will bear with me in accepting the fact that we do regard it as basic to the whole position.

We have all along—and my own recollections ever since I have been before this Council to present the views of India bear this out—registered our caveat against the description of this issue as a "dispute"; and this was not a legal quibble of any kind. Kashmir is not no-man's land. It was not a territory that was discovered; nor has the Security Council at any time had the power to adjudicate on those issues. As I said, we came here in regard to a situation that has arisen concerning a part of the Union. And the only resolutions by which we are in any way engaged are the Security Council resolution of 17 January 1848, and the resolutions adopted by the United Nations Commission for India and Pakistan on 13 August 1948 [S/1100, para. 75] and 5 January 1949 [S/1196, para. 15]. In none of those resolutions does the word "dispute" ever occur. It is quite true that the word "dispute" does occur in certain resolutions of the Security Council to which we are not a party and which have been taken subsequently. The resolution of 13 August 1948 states the following :

"*The United Nations Commission for India and Pakistan,*

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> "*Having given careful consideration* to the points of view expressed by the representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir..." [S/1100, para. 75].

It speaks about assisting the Governments of India and Pakistan in effecting a final settlement of the situation.

Therefore, any idea that a dispute—if it is a dispute exists is not right. It is possible to speak in certain terms, which particularly the representative of the United Kingdom has used. One cannot compound a felony; it is not right to ask us to do so. It is possible for a country to give up its own sovereign territory by its own sovereign will, That is another matter, but no independent nation, no Member State here expects to be called upon or asked to say : "Well, you have been invaded; that is the fact of today." That may well be; we have all been invaded at times—we no more than any other people. But I do not think that this invasion is sufficiently ancient to be historic. What is more, there has been no relinquishment of sovereignty, nor has there been any questioning of sovereignty and the right of the Union of India to the maintenance of law and order and the defence of the frontiers of the whole of the Union, by this Council. And this is a basic fact. That is to say that, in the whole of these resolutions, there has been no such questioning, not even reading back from these words as to what they may mean and how they can be construed.

I tried, in my feeble way perhaps, to point out to the Council before that these long resolutions, on which are based our present considerations, are the result of long deliberations in which the members of the Commission, particularly Mr. Lozano of Colombia, and others went through various phases of conversation, of give and take, and it is on the basis of the assurances given—not assurances given privately; they are part of the documents, but assurances given at the time and made public—and in that context that the resolutions were adopted. It is not a question of this or that being implied—unless "implied" means that it is inherent in the meaning of the thing

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and is not contradicted. The sovereignty of India, the right of the Union, as in the case of all its constituent States, and the duty of the Union with regard to defence and the maintenance of law and order in certain circumstances, and of representation in international contexts—these are secure and safeguarded. I shall come to this at a later stage.

Therefore, any further approach to this matter as though it were a territorial dispute, a boundary dispute or a frontier problem would be a fundamental fallacy. There is no one more anxious and more desirous and more willing to cooperate in finding the end of this trouble than the Government of India itself. But it is not possible to find the ending of the trouble by basing that solution on trouble itself. We have made protests to the Department of Public Information of the United Nations with regard to the approach to this problem as though it were a problem of a disputed territory, because Kashmir is not a disputed territory. Even supposing for argument's sake that we take into this question the interpretation put now—not always—on certain paragraphs of the resolution of 5 January 1949 and in other places that the question of the accession of the State of Jammu and Kashmir will be decided through the method of a free and impartial plebiscite and so on—first of all, these are principles about which we are talking and which are supplemented in the Commission's report. I am not going to analyse that; I have done it before. What is important is that any changes that might come about are about the future status; even in argument. So far as the situation at present is concerned, the sovereignty, the total authority, the right of defence and the right to speak for the territory of Kashmir lies in the Union of India.

The basis of our present discussion was well set out by the representative of the United States on 25 October, when he said :

> "It may be useful at the outset to recapitulate the main lines of Ambassador Jarring's report because it is from that report that our current sessions start." (*797th meeting, para. 28.*)

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We have had the advantage this time of listening to a very brief intervention by the the representative of Sweden [*798th meeting, para. 38 to 42*]. May I say with great respect that when we asked whether we could hear his interpretation on certain other interpretations he naturally took the view that if he chose to do so he would do it later. In any case, the report stood by itself.

In this connexion, since we are meeting in the context of the Jarring report and especially in view of the fact that the discussions and the debates have tried to take other turns, for reasons which are not easily fathomable, I wish to say that we did not ask for the appointment of Mr. Jarring to go to India. We said that we would welcome him in India, as indeed we would welcome any nominee of the United Nations at any time in accordance with the traditional hospitality of our country. We offered him all the co-operation and all the friendliness we could. We gave him whatever information he asked for. I think I am correct in saying that few reports received by the Security Council have had more and greater unanimity of praise than the report of Mr, Jarring. We are not called upon, and it would not be proper for us, either to offer praise or blame except to deal with the substance of the matter as it stands and where we stand in relation to it.

I would like to bring out three facts in this connexion. First of all, there has not been, in our submission, in the analysis of the Jarring report by members of the Council the same degree of attention given to certain parts of the report as to other parts. But that is as it may be, because it is not for us to say how a delegation should treat any document that is before it.

I have analysed the Jarring report and I gave our approach to it on the last occasion. [*795th meeting, paras. 2 to 69*]. Therefore, it is not my intention to repeat that process. However, from the observations made by delegations, apart from the general tribute made to the sacrifice by Mr. Jarring of his time and energy, they all expressed views in regard to what it might mean and what its place was in the whole context of this business.

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My friend and colleague, Sir Pierson Dixon, said :

> "...I hope that his report will prove to have a special significance in marking the beginning of a new phase of constructive progress..." (*797th meeting, para. 2.*)

Therefore we must assume that the constructive progress which we all seek is going to be rooted for the present time in this report. So it is the same thing. The representative of the United States cannot help the Council to decide how best it can aid in finding a settlement acceptable to both sides.

The same kind of observation has come from the representative of France who, with characteristic caution, said :

> "The report of Mr. Jarring has the merit of stressing the complexity of the question." [*798th meeting, para. 48*].

When we come to the study of the report by the Council, we find that the main attention is paid to that part of the report which deals with a solution which, with great respect to Mr. Jarring, was the solution we did not think should have been submitted to us—the issue of arbitration—because this has all the appearance of a country declining to accept good advice or the counsels of conciliation. There are certain things that are arbitrable; there are certain things that are not arbitrable. But in this particular case it goes further than that. This question of arbitrating on certain aspects of this problem has been before the Security Council from 1948 onwards, ever since we came here. At each stage, the representative of the Government of India who was before this Council declined to accept arbitration, because the independence of countries cannot be put into the hands of political delegations to decide one way or another. Last time, I made a brief reference to this and I pointed out that no country in the world—and least of all Mr. Jarring's country—had accepted arbitration in a similar issue. The representative of the United Kingdom referred to this matter. The name of the United Kingdom

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appears small, perhaps less than that of the United States, in the case law on this point where the United Kingdom refused to accept arbitration. At the 795th meeting. I quoted to you the reasons put forward by Henry John Temple at one time. We do not take that position. But even as late as the Jay Treaty, concluded in 1794 between the United States of America and Great Britain, the British refused to arbitrate on these matters.

Anyway, I am instructed by the Government of India to make our position very clear on this matter. We do not want world public opinion—and not only the members of the Council—to be under the impression that the Indian people or the Government of India reject arbitration *in toto* on every issue. In fact, we are in favour of either arbitration or mediation or conciliation or good offices on so many problems. But this problem concerns the vital interests of a country and, what is more, issues on which this Council has already pronounced itself. To make an arbitral tribunal of what in our opinion would be a court of appeal or a court of review would not be correct. Therefore, we made it very clear that it was not possible at that time.

The other day [*795th meeting, paras, 57 to 59*], I cited the most recent instance where, in what is called the Interhandel case, the United States refused to go to arbitration with a Swiss concern for the same reasons. The same thing applies to the United States—Panama disputes. It is necessary for me to say this because a country like mine does not want to place itself in the position of not listening to counsels of conciliation and of good offices.

But all problems have to be judged in the context of their vital implications. Where our security and what is more, where the terms of reference of Mr. Jarring's visit are affected, then we think that arbitration was the inappropriate method to pose to us.

Mr. Jarring very frankly and helpfully told us that he was going to proceed on the basis of the resolutions of 13 August 1948 and 5 January 1949. Those were the tracks that

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he had set and he was not going to move from it. As far as we are concerned, all the discussions have taken place on that basis, and we take the view that we are entitled, if that is the position, whatever may happen in the far future, that the decisions made by the Council cannot be thrown into the melting pot of an arbitrator. And the facts—in this particular case one fact, whether part I of the resolution of 13 August 1948 had been completed or not—in our submission, have been established by the Commission, both explicitly and implicitly. They appear in many ways, in many parts of the resolution; they appear in the various records submitted by the Commission; and what is more, they appear in the board fact—which not even the darkness of nights can conceal—of the annexation of our sovereign territory by an external Power. Therefore, it is not necessary to arbitrate on that.

A fact which we would like to stress is the reference to the grave problems, made not at our instance, because we made no appeal to Mr. Jarring, we expressed our point of view. I hope I am not disclosing any private conversations. Our position was that he had come as a well-known neutral at the behsst of the Security Council and we understood that his loyalties were to the Security Council, that is, to the Charter and to the merits of the problem. But in his own observation he points to some of the grave aspects of the problem and Mr. Jarring says in his report:

> "...I was aware of the grave problems that might arise in connexion with and as a result of..." (*S/3821, para. 10.*)

This is a phrase which was requoted by Sir Pierson Dixon in his address to the Council. [*797th meeting, para. 11*].

Secondly—and I will return to this later when I deal with it in full there has been much play made of the statement of Mr. Jarring in paragraph 13 of his report where he says :

> "...the Government of India...felt aggrieved that the Council had so far not expressed itself on the question

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of what in the Indian view was aggression committed by Pakistan on India. In the Indian Government's view, it was incumbent on the Council to express itself on this question and equally incumbent on Pakistan 'to vacate the aggression." [*S/3821, para. 13*].

This has been interpreted by some—not by Mr. Jarring, for Mr. Jarring has been content to leave it for other people to understand—as to say that this question is no longer under consideration, that it has gone into the limbo of history, whatever it was, and that in any case, there was no view expressed by the Security Council in this matter. No procedures that have been followed are based on one view or another. That is not our position, as I shall make clear when we go on.

The third aspect, and this is important, is that Mr. Jarring, in addressing the Council the other day, said:

> "In my report, I established that a deadlock had been reached between India and Pakistan on part I of the resolution of 13 August 1948, and in particular on paragraphs B and E of that part". [*798th meeting, para. 40*).

Therefore, as far as we are concerned, there is a deadlock in the sense of proceeding with whatever resolutions we are engaged by. But there is no deadlock in relation to the title or in relation to the sovereignty of the country. But that deadlock is centred on part I.

Therefore, if this statement of Mr. Jarring has to have any value, it rules out any discussion of part II before part I is disposed of; that is, it has narrowed considerably. If the statement of the representative of the United States is to be entertained when he says "it is from that report that our current sessions start." (*797th meeting, para. 28.*) I do not say it should end there. But it appears to us that the deadlock has been reached. This is where it is deadlocked and unless and until we are able to resolve it, it is not possible, according to Mr. Jarring's own interpretation, to proceed on the rails that he has set.

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Mr. Jarring says :

"...I established that a deadlock had been reached between India and Pakistan on part I of the resolution of 13 August 1948, and in particular on paragraphs B and E of that part." [*798th meeting. para. 40.*]

It is very important because certain delegations, like your own, Mr. President, have gathered the mistaken impression, if I may submit, that this view of ours is an afterthought. But I will come to that at an appropriate time.

Part I is not implemented because, contrary to the usual conception, part I is not just a cease-fire order. If one looks at the resolution of 13 August 1948, one will find that this resolution is divided into three parts. The cease-fire order relates only to paragraph A of part I. It is usually mistakenly construed that the whole of part I is the cease-fire part. The cease-fire order is paragraph A of part I. That cease-fire order, thanks to the wisdom of the Pakistan and India Governments and people, has been carried out, and despite such vicissitudes as might have occurred, is maintained. Therefore, the cease-fire order is only section A of part I. But when we say that part I has not been carried out, it is in regard to the remainder. In regard to the remainder, paragraphs B and E are the more important parts. I find it difficult to deal with the whole of this problem in the context of the present status of this discussion in the Council, because there are seven or eight members who have spoken from different points of view and laid different emphasis, and almost led us to think in one direction or another. As far as we are concerned, we regard it as our duty to consider each of these statements, and not to say that this comes from this country and that comes from that country; as far as we are concerned, they all come from members of the Security Council. Therefore, when I come to that, I will deal with it in detail.

Our position has been that of part I, paragraph B of the resolution of 13 August 1948 has not been implemented Paragraph B says :

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"The High Commands of the Indian and Pakistani forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmis."

Here, may I draw the attention of the representative of the United Kingdom, in view of what he has told us, to the fact that this resolution goes on to put in brackets these words :

"(For the purpose of these ptoposals 'forces under their control' shall be considered to includeal l forces, organized and unorganized, fighting or participating in hostilities on their respective sides)"—"respective sides" meaning the invaded and the invader.

Therefore, the augmentation for which the key date is the date of the acceptance of the resolution goes back to this date. Now I should like to ask what would happen if the Security Council had on a certain date called upon the parties concerned not to augment the strength of their forces or to do anything that might worsen the situation and if the parties did accept that resolution, as was the case with the Security Council resolution of 17 January 1948.

The Security Council called upon India and Pakistan to refrain from making statements or doing or causing to be done or permitting any acts which might aggravate the situation. On 17 January 1948 the Council passed this resolution. It is not necessary in order to understand the position of the Government of India even to go into what is the present position in regard to the augmentation, because on 15 January 1948 the Pakistan Government sent its reply to the Council in which it said that a certain number of independent tribesmen and persons in Pakistan were helping the *azad* Kashmir Government in their struggle for liberty as volunteers, but that it was wrong to say that Pakistan territory was being used as a base of milttary operations and that it was also incorrect to say that the Pakistan Government was supplying military equipment, trans-

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port and supples to the invaders or that Pakistan officers were training, guiding and otherwise helping them. That communication was made to the Security Council on 15 January 1948. [*S/110, annex 6, document 1.*]

On 17 January 1948 the resolution was passed and both countries accepted it From that day onwards to now, that injunction stands violated. I ask my friend from the United Kingdom : If a country comes here with a complaint and the defendant says, "I am not guily of this offence and/or these charges levelled against me are not correct." and if those statements are then taken at their face value, which we should rightly do, and afterwards the obvious facts known to everybody disprove this denial, then is it necessary to bring in any other facts of augmentation ? That is to say, there was augmentation even in contradiction of the 17 January resolution, even before we come to 13 August.

But since we have taken the view that part I of the resoluion of 13 August 1948 has not been completed, we are content for the moment to rest on that resolution itself. In this connexion, Sir Pierson Dixon has dealt with this matter at some length. [*797th meeting. para. 5 to 20.*] I find it difficult to answer the speech and to deal with these items separately without duplication, so if I overlap a little, I hope you will forgive me.

First of all, I want to mention the contribution made by the United Kingdom in this debate, parts of which arouse responses in us which are of an appreciative character; that is to say, we do not condemn them. It is not our right to do so. The United Kingdom has a responsibility as a permanent member of the Security Council, as it told us, and it is its duty to say what it wants to say. We are not here to attack this speech nor to say that springs from motives that are *mala fide* or that there is an ulterior purpose in them. We are able to understand part of it, to appreciate it even if we cannot accept it. We are unable to agree with part of it, and there are parts of it with which we are in profound disagreement. Some of it springs from misconcep-

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tions which are fundamental to the appreciation of this problem. We think that some parts of it are tragic because they do so much to take away from the other parts which are useful for a constructive solution. So I hope my colleague from the United Kingdom will accept it from me that any observations I make are entirely centered on the merits of this matter. We do not take the view that the contribution it has made is either an attempt merely to find fault or to reject proper conclusions, but it is the view of the United Kingdom, and it has been put to us.

Sir Pierson Dixon tells us—and I do not know on what authority—

> "I am glad that the representative of India, in his speech at the 795th meeting, accepted this resolution as engaging India, together with the two resolutions of the United Nations Commission for India and Pakistan." [*797th meeting, para. 4.*]

This is in reference to the resolution of 17 January 1948. I should like the representative of the United Kingdom to point out to me one instance, not more than one, where a representative of the Government of India at this Council or anywhere else and at any time repudiated that we had accepted that resolution of 17 January 1948. What is more, it is our submission, not our contention, to this Council as a matter of fact that we have scrupulously and religiously observed this. There was never a time when a complaint was made against us that there were augmentation of our forces that we did not immediately take the necessary steps, not for a withdrawal of the augmentation because we had not done anything of that kind, but for further elucidation.

There has been no augmentation of the armed forces in India either of the militia or of the regular Indian army or other State forces in the region of India which is Jammu and Kashmir, since we engaged ourselves by this resolution on 17 January 1948. We have done nothing to augment the forces

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there since we accepted the resolution on 13 August 1948. It is not necessary for me to go into the exact number of forces there are on the territory. It is known to the United Nations observers. It is not possible in a system of government like ours to augment troops or equipment without public debate. Therefore when the United Kingdom representative says that we accepted that resolution at the 795th meeting—unless I am mistaken and as it may be a bad reading of English, if means that it is only at the 795th meeting that we had accepted it—I should like this to be accepted as a request to modify his view on this question. We have always accepted it and we have always followed it. That is why during the period from 17 January 1948 until the time of the cease-fire we have struggled hard not only in regard to the letter of this resolution but also in terms of the spirit of the resolution to carry it out. That is regard to augmentation.

But the Security Council resolution of 17 January 1948 relates to both paragraphs B and E of part I of the Commission's resolution of 13 August 1948. It is no exaggeration to say that no countries today have closer and more friendly relations – not alliances—than the United Kingdom and my own. We have been through times of conflict, not of armed conflict but conflict of opinion, conflict of positions, and such arrangements as we have in our relations are based upon mutual confidence. And the very fact is that even on this vital issue—and I must say it here—India is the successor to the British Empire in India, as I shall point out later on; it is not a new State, and it has taken over the responsibility, the assets and liabilities of the British Empire in India, and this is a relevant matter because of the statements made at this table.

Sir Pierson Dixon went on to say :

".. we attach the greatest importance to both the letter and the spirit of part I, paragraph E of the resolution of 13 August 1948." [*797th meeting, para. 5.*]

That is the part that asks people not to aggravate the

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situation, by the propaganda war of hatred; it does not relate to the augmentation of military potential.

Mr. Jarring reported that :

"...the Government of India laid particular emphasis on the fact that, in its view, two factors stood in the way of the implementation of the two resolutions adopted by the United Nations Commission for India and Pakistan." [*S/3821, para. 13.*]

With regard to the attitude of the other party concerning this matter—not an equal party, but the defendant in this action—there has been conduct of threatening even in this Security Council, while today, after the last series of meetings, financial aid is given and intelligence officers and personnel are sent to Kashmir to stir up trouble. And when sabotage and violence are being carried out in our country, then it is not right for us not to complain.

However, where we join issue with our distinguished friend is in this matter of making an appeal for what one might call good manners, if nothing else. I do not doubt justice can be even-handed; but everything need not be even-handed. I think it is sent to the wrong address as far as we are concerned. We ask the representative of the United Kingdom this—as we have a right to ask, because we are members of a political family and we exchange information and tell them when we disagree. We would like to know what responsible person in India, what responsible authority in India, what responsible decision in India militates against paragraph E of part I of the resolution of 13 August 1948. We have cited instance after instance. What is more, we do not have to cite instances. There are threats of violener, even in this Council itself, of what would happen to us if this or that were not done. Therefore, I am saying all this because we cannot entertain an approach to this problem as if there were two parties equally guilty—a plaintiff and a defendant to be regarded in the same manner. Therefore, that is our position when the representative

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of the United Kingdom, followed by the representative of Australia, tries to find fault with us equally—although I am afraid that in the case of the representative of Australia he finds it very difficult to give an instance, so that he has put his foot in it.

Then comes the question of paragraph E. I am not saying that some newspapersmen have not written here or there something that was irresponsible. I am not admitting it, but it may well be. I ask where either a representative volume of public opinion, representative statement or persons in public life and authority, or any institution such as Parliament or the Government of India have sought to violate this, and where, if any odd person has done so, that has ever been condoned by the Government of India.

If we had not always worked for the maintenance of the atmosphere that is necessary for the conduct of negotiations, how would we complain ? How would we place so much insistence on this matter, if we ourselves were guilty ? If we were always shouting at them, if we were also carrying on psychological war, if we also believed in hatred, if we believed in jehad and if we believed in taking the law into our own bands, it would be very unwise on our part to make complaints because we would then be living in glass house. We do not do that.

We want to ask the representive of the United Kingdom to take that request of ours into account and to tell us, on the one hand, what makes him think that it is only at the 795th meeting that we accepted the resolution of 17 January 1948 and also, on the other hand, what makes him think that we are in the same position with regard to part I, paragraph E of the resolution of 13 August 1948. This is one of the many factors that make further progress difficult. But Sir Pierson Dixon says, "But in my view paragraph E must be interpreted even more widely than that". [*797th meeting para. 5.*] Now we entirely agree. That is why, even as five or six years ago, my Prime Minister asked the then Prime Minister of Pakistan that what-

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ever our difficulties were as between our two countries we should not settle them by war. Every time we have brought that forward, the answer has been, "Do something else" If something else is done, however, the declaration does not become necessary. Thus our position with regard to this is that paragraph E must be widely interpreted, as was suggested by the representative of the United Kingdom. And he himself gives the reasons. He gives examples.

We have been charged in the Council—and until now we have not bothered to protest about it because it is a wild charge —with genocide. The Convention on Genocide is one that the Pakistan Government ratified a few weeks ago. It should have done so long ago. We are charged with genocide, and representative of Australia, in order to be fair to each of us, says that it is wrong for Pakistan to charge India with genocide. [*798th meeting, para 3.*] It does not help. But it is equally wrong, he says, for the representative of India speak about what happened on the frontier.

Now what did I say happened on the frontier? I said that on the international frontier between India and Pakistan there is no regular army on our side. There are only armed police. If there are small incidents, they are not taken much notice of, but are settled some way or other. But if there is a big one, sometimes you have to resist it. But I said nothing about what happens on the frontier. We have no frontier dispute. It would be wrong on our part to bring a frontier dispute to the security Council. We are not going to get entangled in Security Council on a question of frontier disputes.

The representative of Australia say, "We deplore charges of genocide, and we deplore the other charges". Well, there are several ways of being fair, but to attribute to us something that we have not said, someting that would put us in the same category as the other party, does not help the situation. If they want to get a better atmosphere, they must make a distinction between the party that contributes to worsening the atmosphere and the party that does not. I would like the representative of

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Australia to tell us some time, publicly or privately, what we have said about the frontier which upsets him.

If the reference is to our giving facts and figures with regard to sabotage and murder, the use conspiratory intelligence men, some of whom we have got, or to spending the Pakistan taxpayer's money—which is their sovereign right—in trying to corrupt our people, well, that is inside our country and not on the frontier. If the reference is to the frontier in the sense of the cease-fire line, under the agreement reached by the Security Council, no one who belongs to the army or anything of that character can go within 500 yards. There is a 500-yard margin on either side of the cease-fire in which no forces either of Pakistan or of India can come, at least publicly, and so far as we are concerned we do not go there. Furthermore, the United Nations observes are there. Therefore, with great respect, I would like to ask our colleague from Anstralia to exempt us from this charge.

I can quite understand that both the United Kingdom and Australia do not want in this issue to be regarded as finding fault with anyone, and one way of finding fault with one person is to find fault with both. If you abuse both sides you are usually regarded as impartial. But impartiality must be combind with a relation to facts. That is my submission.

Sir Pierson Dixon continnes :

"I would wish to appeal to both India and Pakistan to do their utmost, in the words to part I, paragraph E, of the resolution, 'to assist in creating and maintaining an atmosphere favourable to the promotion of further negotitions'." [*797th meeting para. 7.*]

I am quite at liberty to say—I speak on behalf of my Government and of the people of India in fully responding to this appeal—that we want, not only in this matter, but generally to live on terms of friendship and amity with our neighbours. We do not feel that they are a strange people or that it is our

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business to be in competition with them. Their prosperity is our prosperity, but it requires two to make it possible. We have done a great deal in other spheres, whatever we can, to bring this about, but we cannot do so at the expense of our sovereignty and the self-repect of our people.

Therefore, so far as the appeal is concerned, I will not say that it was unnecessary, because you can always appeal for good things. There can be no limit to the doing of good. Therefore, we do not object to the appeal. We will only say that we have done the best we can. We keep on trying to do it, and we accept advice.

Now Sir Pierson Dixon continues, and this is where the trouble comes. He asks :

> "What other impediments to progress did Mr. Jarring report ? He said that the Government of India felt aggrieved that the Council had so far not expressed itself on the question of what in its view was aggression committed by Pakistan on India". [*Ibid., para. 8*]

Then he goes on speak of the view of United Kingdom as expressed by Sir Alexander Cadogan and Sir Gladwyn Jebb, which I do not want to go into, becausc that itsef would lead to a long argument as to what exactly they did say.

Sir Pierson Dixon goes on to say :

> "I do not feel that it would contribute to progress if we were to go over this ground again . . . Since neither Her Majesty's Government nor the Security Council has felt able to pronounce on the Indian case on this aspect of the question, and since this is, so to speak, the major premise in the Indian argument as developed by Mr. Krishna Menon, it follows that we are unable to accept many of the deduction which have been drawn, however logically they might seem to ensue if the major premise were accepted." [*Ibid., para. 10.*]

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That is the way a very cultivated English scholar tells you : "I don't want to listen to you. What you say may be very sensible—if it made sense. It doesn't make sense, so I don't want it." I am accustomed to that: I lived with them for twenty eight years.

We regard this major premise as not only true but as basic and fundamental. On behalf of the Government of India, I wish to state that our position is not that the Security, Council has not pronounced itself on aggression, because the resolutions are based upon sovereignty of India over its territory. These resolutions do not make any reference to Pakistan. India had to do publicity, India had to make the appeal, India had to keep law and order. All these matters will come up later on. Therefore the resolutions that we speak of do put this issue in cold storage. It is quite true that Pakistan has not been branded as aggressor. Parhaps it is our fault; we did not ask for it at that time. We said that we did not want any name-calling, that we wanted them to call off the aggression. That is all we ask even tody.

Therefore, it is not our position that aggression has to be proved. It is our position that the resolutions by which we are engaged—the resolutions which, will all their conditions and with all their sequences, which are important in this matter, were formulated and accepted—are built upon the basis that India had made a complaint of the violation of its territory. India was the complainant. It was, I think, Mr. Warren Austin, who was then the representative of the United States, who said that India was here because the external sovereignty of Kashmir had been handed over by the Maharaja to India, and Pakistan was here and had the rights of a defendant, because it was a sovereign State. Pakistan is a sovereign State, but has no sovereignty over Kashmir.

Therefore, the question is not that this is a side issue. This is the basic issue, and it is the major premise. If the representative of the United Kingdom does not accept that major premise, I am afraid that he is straying aways from the

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principles of the United Nations Charter. And I am sure that, with the close relationships we have with them—there is nothing private about it—we have another bone to pick in this matter. In regard to other members of the Security Council, this may be only a matter of the Charter. But the United Kingdom is a party to a party to these boundaries, The United Kingdom is not only bound by the Charter, but is bound by the tripartite agreement in regard to the settlement in India. Therefore, for the United Kingdom, especially in the context of the time, to take up this view would be a wrong one. We are not therefore prepared to admit that there has been no aggression.

From there, let us proceed to the facts of the case. I will not go into an analysis of the resolutions of 13 August 1919. I did that early this year at great length and, if the representative of the United Kingdom will give us the assistance of going to them again, he will see our point of view.

Part II, section B (3) of the resolution of 13 August 1948 says ;

> "The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed." [*S/1100, para. 75.*]

I should like to ask the representative of the United Kingdom how the Government of India guarantees human and political rights inside a territory in which it is not sovereign. How does it make it publicy known that peace, law and order must be safeguarded ? It is because it is its responsibility. The Security Council is saying that "You must keep your house in this way, you must keep your people in this way." The resolution reads : "The Government of India will undertake . . ." We give an undertaking in regard to the State of Jammu and Kashmir. There is no reference, in any of the Security

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Council records, to two States of Jammu and Kashmir. There is only one State of Jammu and Kashmir. And what is more, the Security Council proceedings speak expressly about the sovereignty of the Jammu and Kashmir Government in the sense of its full authority.

On an earlier occaison, I pointed out that in this resolution the Commission had placed upon India the responsibility of assisting the local authorities in the observance of law and order—not the local authorities on that side of the cease-fire line in which there is full administration by India, but in the whole place. And the whole reference to local authority is an indication that there is only one governing authority in the whole place, and that is Jammu and Kashmir. On accout of the invasison, control having disappeared, there were some local agencies which were not able to maintan law and order. It was agreed at that time—and the correspondance between Mr. Lozano and the Prime Minister of India, which is part of the documents, may be read in this connexion—that within the lines then existing (not the cease-fire line, but the lines then existing) these local authorities were to be assisted in their task by India. That could only be possible because there was no other authority there. Therefore, if India was sovereign over the whole territory of Jammu and Kashmir, the 84,000 square miles of it, then, if 42,000 square miles are annexed by someone else and foreign troops are there, if they are kept as part of the army of the other side, if they enter into agreements like the one on the Mangla Dam which they are not competent to enter into, then you have aggression.

If the terriory was not sovereign, if it was a disputed territory, that would be a different question. But this resolution refers to the whole of Jammu and Kashmir as being one place It recognizes the sovereignty of the Government of India; it recognizes its responsibility for the maintenance of law and order. And, what is more, as I pointed out to the Security Council on an earlier occasion, India told the Commission at that time that she would have to protect the caravan routes, the trade routes leading out of India on her frontiers. And it was

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agreed that when the Government of India made a representation of that kind, it was time to go—in fact, the various posts to which they should be sent, and so on, were discussed at that time.

So it is not as though there were two countries and the sovereignty of the Union did not run into this place. Our position is that the whole of the territory of Jammu and Kashmir is part of the Union of India, and half of it is under foreign occupation. It is in that area that there has been augmentation, and it is kept under foreign occupation by the use of these forces.

Then we come to a distinguished jurist who is now, I believe, a Judge of the Supreme Court of Australia—Sir Owen Dioxn. These are part of the Security Council documents, so I do not have to ask anybody's permissian to read them. Sir Owen Dixon said :

> ". . . when the frontier of the State of Jamm and Kashmir was crossed on, I believe, 20 October 1947, by hostile elements, it was countrary to international law, and [that] when, in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law." [*S/1791, para. 21*].

There is, if it is argued that the first had to do merely with marauders, irregular whom they could not stop, then there was the next one, when the regular army crossed the frontier.

It is not for me to go into the past history of this; it is not necessary. What we are concerned with is who had the sovereignty at this particular moment—whatever may happen tomorrow. And that sovereignty cannot be altered by an act of force. And that act of force is a violation of international law.

It is not correct, if I may say so, to argue before the Security Couucil that Sir Owen did not believe this but merely said this, as has been implied. There is no doubt that when the frontiers of a sovereign State are crossed, when the territory of

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a sovereign State is trampled upon in this way, there is strictly a violation.

What is more, we have the evidence of Mr. Korbel, who was a member, and for a time even Chairman, of the United Nations Commission for India and Pakistan. After he left the Commission, he wrote a book entitled *Danger in Kashmir*. This is not a partisan book in any way ; it does not plead our case. Mr. Korbel states in that book :

> "Then came the first bombshell. Sir Zafrulla Khan informed the Commission that three Pakistani brigades had been in Kasnmir territory since May."

Thus, after having told the Council that Pakistan troops were not in Kashmir, after having denied that there was any aggression, Sir Mohammed Zafrullah Khan told the Commission that three brigades of Pakistan troops had been in Kashmir since May 1948. The explanation given by the Pakistan Government was that, when this matter had been raised before the Security Council and the representative of Pakistan had said that there were no Pakistan troops in Kashmir, the Commission was not in existence and, therefore, the Commission could not be informed. Mr. Korbel states in his book that the Commission:

> ". . . explained to the Pakistans that the movement of these troops into foreign territory without the invitation of that territory's Government was a violation of international law."

Thus, Mr. Korbel, who was at one time Chairman of the United Nations Commission for India and Pakistan, given the facts of the movement of troops in this territory ; he gives the facts of this aggression ; and, what is more, he states that was the opinion of the Commission. I should therefore like to know what basis there is for arguing that the Security Council has not pronounced itself on this matter.

We are anxious to concede that the representative of

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Australia meant well when he said that he did not regard the Indian complaint as unworthy of examination. We must, however, place this limitation on that appreciation : we cannot accept any statement that the Security Council has not pronounced itself on India's complaint. What we can say is that the vacation of aggression—the action which should follow the Council's pronouncement on India's complaint—has been delayed.

Since the question whether or not there has been aggression is the major part of the case, it is my duty to place before the Council, at least for the purposes of the record, what the exact facts are.

This is what the United Nations Commission for India and Pakistan said in its third interim report :

> "At the time that the Commission adopted the resolution of 13 August 1948 it had reason to believe that the 'Azad' forces did not constitute a properly organized and equipped military force and that consequently their disposal, once the Pakistan Army had withdrawn from the State, would not constitute a major difficulty."

I read that out because, for some reason which I am unable to understand, Sir Pierson Dixon made the following statement :

> "If I undestood Mr. Krishna Menon aright, he was concerned with what is in the resolution—the principle that forces should not be augmented after the cease-fire [that is quite correct] and with something that is not in the resolution ; that is, the question of Azad Kashmir forces. The Commission did not explicitly deal with this latter point." [*797th meeting, para. 14*].

If Sir Pierson Dixon is adhering strictly to the letter of this resolution and is saying that the resolution does not ask for the vacation of the "Azad" Kashmir forces, I should like to submit two observations.

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In the first place, we find the following sentence in part I, paragraph B of the resolution of 13 August 1948 ;

> "(For the purpose of these proposals forces under their control shall be considered to include all forces, organized and unoganized, fighting or participating in hostilities on their respective sides.)"

At that time, the Pakistanis denied that they konw anything about these forces or had anything to do with them. It was only afterwards that they admitted that all these forces—thirty-two battalions—were in Kashmir. If, therefore, the United Kingdom representative desires to adhere to the position that "the Commission did not explicitly deal with this latter not deal with "this latter point", And the answer is : because the Commission was not told ; because the facts were concealed from it. At that time, the Commission thought that these were irregular forces, which presented no difficulty.

At a later point of its third interim report, the Commission gives another version of the situation, as follows :

> "There is, indeed, no doubt that the *azad* forces now have a strength which changes the military situation and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange within a structure which considers only the regular forces of two armies. Although it might be a matter of discussion whether the numerical strength of the *azad* Kashmir forces has actually increased since August 1948, there is no question that those forces, who have since then been working in close co-operation with the Pakistan regular Army and who have been trained and officered by that Army, have increased their fighting strength. It is reasonable to suppose that, if the Commission had been able to foreasee that the cease-fire period would be prolonged throughout the greater part of 1949 and that Pakistan would use that period to consolidate its position in the *azad* territory, the Commission would have dealt with

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this question in part II of the resolution of 13 August."

I make a present to the United Kingdom representative of that paragraph from the report. What is the answer ? It is that the Pakistan side used the period in question to consolidate its position in the *azad* territory. If that is not augmentation, in sheer violation of the resolution of 13 August 1948, I should like to know what it is. In the face of the concealment of these facts from the Commission, how can it be argued that we have brought extraneous matters into this discussion ?

In the second place, before Mr. Jarring went to India and Pakistan, we started to the Council that these resolutions could not be taken outside the context of the assurances and explanations and guarantees publicly given by the Commission, and thus by the Council. Hence, whatever the Commission has stated as a finding of fact does not have to go to arbitrators. The Commission has found that these forces are there and, what is more, that Pakistan used the truce period to consolidate its position.

The Foreign Minister of Pakistan thought fit to say in his brief reply that I had suggested that there had been some reduction of the *azad* forces—from thirty-two battalions to twenty battalions. Of course, that depends on how many men are in a battalion. The fact is that there are more troops in the territory now than there were before, even though the number of battalions have been reduced owing to a reorganization.

Then, there was a minority report by the Commission, which was not contradicted by the majority. The minority report of the Commission comments as follows on this violation :

> "The *azad* forces meanwhile grew by the spring of 1949 into thirty-two disciplined and fully armed battalions, which, according to an evaluation of the military adviser of the Commission, represent a 'formidable force'. Owing to this fact, which is at variance with part I, section B of the said resolution, forbidding both parties any

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increasing of their military potential, the situation has materially undergone an absolute change and so a new problem was created as to what, within the meaning of the resolution represents the 'bulk' of the Indian army in Kashmir. From this have arisen logically further difficulties concerning the disarming of the *azad* forces."

I do not want, in view of Mr. Jarring's position that the deadlock relates to part I of the resolution, to go into the question of the withdrawal of the bulk of the forces or into the various other problems to which reference has been made. However, the existence of these *azad* forces, the fact that they have been consolidated, their presence in the territory after the adoption of the resolution, the concealment of the facts from the Commission and the Security Council, the statement by the Commission itself that if it had known the facts it would have included a reference to them in the resolution : all these are relevant points which emphatically repudiate the position taken by the United Kingdom representative—if he means by his statement that "the Commission did not explicitly deal with this latter point" that we have introduced extraneous matters into the resolution. If, however, he means that this is not so and if he asks us to infer that the reasons why it is not so are the reasons which I have put forward, then I am grateful to him.

Sir Pierson Dixon then said :

"Now these are very real problems; and the Security Council must be deeply concerned at any augmentation of military potential on either side." [*797th meeting, para. 14.*]

As a general proposition, no one can quarrel with that. But we have not augmented the military potential, and the United Kingdom knows that is true. I shall not go into the question of how the United Kingdom knows that we have not augmented the military potential. Sir Pierson Dixon's advisers are in full possession of the facts. If it came to a challenge, I would disclose the facts.

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We refuse to be put into the position of being in the same book with others who are trying to conceal facts from the Security Council. The Government of India has not one instance gone back on any international obligation. In fact, we inherited from the British the idea of paying our debts. We honour our international obligations.

The problem of augmentation is a real problem, but the complaint must be sent to the right address—not to us. We have not done any augmenting. In fact, the forces in the area over which we have effeective control are not today beyond the limits set at the time in question; there has been no violation of the resolution in any way.

We regret that Mr. Jarring was unable to suggest a means accessible to both sides, that is, to find a solution to this matter, but our answer to that is that the facts were proved when the Council said that the *azad* forces were there, when we had been told that they were not there. What makes the more vicious part of it is that the Commission's third interim report said that had they known that Pakistan woutd use that period to consolidate, that is, to perpetrate further aggression, then they would have included that in the resolution. How much plainer can it be put that this was a case of aggression ?

After all, this is not a debating society, and what we say we say for a purpose, and we would request the representative of the United Kingdom to re-examine this matter and to verify the sources of his information. A man in his position must act on advice or, at least, must tend to act on advice. Sir Pierson Dixon went on to say :

> "But we must do more than try to ascertain the facts; we must try to find some method of reducing the state of tension, of reducing the burden of armaments and of dealing effectively with a situation which has become crystallized in a form never contemplated when the resolution were passed." [*797th meeting, para. 15.*]

Is it sufficient for a representative of a great Power, who is a common friend of both sides and who, in this parti-

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cular matter, owes us a moral obligation because we obeyed the law, to make this statement as an *obiter dictum* ? Is it sufficient for them to say things of that kind ?

Sir Pierson Dixon said that we must do more than try to ascertain the facts, we must try to find some method of reducing the state of tension, but how does one reduce the state of tension between an invaded country and an invader, unless the moral weight of the United Kingdom is thrown against invasion ? The United Kingdom should come forward and say that, irrespective of what may be the future solution, irrespective of the various other factors or of any difficulties thereof, wrongs cannot be righted by the wrong method. Invasion is invasion, even if it is invasion of India. After all, the whole of history has not yet been written. Sir Pierson Dixon tells us that we must do more than ascertain the facts, but the facts have been assertained. They have been ascertained by the Commission, and we are nor willing to put that in the melting pot.

Sir Pierson Dixon said that we must try to find some method of reducing the state of tension. Well, to reduce the state of tension is what Mr. Jarring referred to in connexion with paragraphs E and B, and so far as paragraph B is concerned, we have fully responded to the suggestion made by the representative of the United Kingdom. We understand the spirit in which it was made. We do not regard it as an admonition or as patronizing. We accept it, and if in any way we can further the spirit of conciliation in that way, if there are any errors committed on our side—I do not know of any, because we have been very meticulous in this—we are quite prepared to accept information, not dictation, from the United Kingdom.

The United Kingdom, of all countries, is aware that we have tried to reduce the state of tension. The state of tension is not only in regard to Kashmir, the reference made was to the two States. India is a country in which the influx of refugees from the other side and the various other factors that are taking place is creating a lot of public feeling, but in spite of that we have tried to reduce the tension.

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With regard to reducing the burden of armaments, one way would be not to supply more armaments to an invading country. Therefore, we entirely agree with this and, what is more, we accept the spirit in which it was made. We share the view that the situation should not be crystallized, because the cease-fire line was never intended as a political boundary. We withdrew an advancing army in order to stop the fighting and because it was considered as a temporary expendient. The sitution has become crystallized in a form never contemplated when the resolutions were passed. Therefore, we beg the United Kingdom to seek to implement its own dictum in this matter, and if we can in any way be helpful, we shall be willing to cooperate.

Therefore, the summary of the argument of the representative of the United Kingdom is that there must be a withdrawal of troops, starting from the Pakistan side, and that he appealed to both sides to do the utmost to create an atmosphere favourable to the promotion of further negotiations. It is difficult to carry on negotiations when there are large armaments facing, us, when the security—this is not a territorial dispute over Kashmir—of India is in danger. No one knows better than the United Kingdom that there have been a great number of invasions into India from the north-west.

Sir Pierson Dixon also said that "there is no question here of interferring with national sovereignty" [*797th meeting, para. 21*]. That relates to another problem altogether; it refers to problems raised by some other countries, and therefore I shall have to leave part of the other suggestion made by Sir Pierson Dixon and Mr. Wadsworth till that particular subject comes up.

I will try to prove that it is not just a question of aggression, but a violation of India's sovereignty, violation of the decisions of the Security Council, both in spirit and in law, and a continuing and comulative violation, that does not require a microscopic examination. These violations have been investigated, and they have been found to be true by different people, whether of Colombian, Czech or Australian nationality. Their cases may have been in different contexts, it may be that they

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have not wanted to pronounce themselves on another aspect, but the fact that the territory has been violated, the fact that foreigners—foreigners in an international sense—have come into the territory of India, that has been proved. It does not require any further examination. The facts have been found and, therefore, it lies now in the lap of the Security Council to defend the principles of the Charter and to do justice.

Mr. Wadsworth, the representative of the United States, told the Council that an equitable solution must be found [*797th meeting, para. 26*]. Happily for us, the American ideas of equity are those which we have been educated to understand. Equity is the method of implementing justice. Those who want to receive equity must give equity. One cannot give equity to an invader. We do not want anything inequitable to be done to us.

There was a reference which we inferred—we may be wrong—to be oblique support for the position taken by Sir Pierson Dixon that all these matters are past history and that we cannot go into all that. Sometimes it is a good thing to forget the past. Sometimes it is convenient, but in this case the past lives in the present.

The representative of China made the observation that the Security Council had heard very elaborate arguments on the Constitution of India. He spoke of the law and on the backing of law, but these have no meaning, and, not only for the purpose of Kashmir, we as a country cannot allow a statement of this kind made before the Security Council, irrespective of its source, to pass unanswered. Mr. Tsiang said :

> "All colonial empires have the backing of law. All of them have been fortified with treaties, conventions, protocols, agreements and what not. The British empire in India had ample legal foundation, [I will confess thatt his is the first time I have heard that] In the face of India's claim to self-determination, all British legal claims were swept aside. These claims were solidly based on treaties duly signed and ratified, and even sanctified by time and tradition. When the Indian people demanded self-deter-

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mination, the legal documents in the hands of the United Kingdom seemed to have no moral or political relevance. What the Indian peoples demanded and won from the United Kingdom should, I hope, be granted to the people of Kashmir." [*797th meeting para. 51.*]

Let me first deal with this. First of all, we did not demand self-determination of the British. We asked for the independence of our country and with this, in the maturity and course of time, the United Kingdom came into agreement. Therefore the arrangements that were made were arrangements not of self determination but by an Act of the British Parliament, the Indian Independence Act. No question of self-determination was involved in this matter; certain *ad hoc* arrangements were made and power was transferred to the new authority. There was no plebiscite or anything of that kind. Self-determination only came in regard to the fashioning of the Constitution, which we, as a self-governing Dominion, fashioned later ourselves. To suggest that Indian independence is based upon the conception that is now being worked out in the wrong way here would not be in accordance with history.

To suggest that the laws and legal systems, the contracts, treaties, obligations and rights vested in the British Empire disappeared with transfer of power would be a very serious thing for us. For one thing, we should not now be a Member of the United Nations. India is a successor State.

I have no desire to weary the Council with our domestic legislation which concerns mainly the United Kingdom and ourselves, but the position of the Dominion of Indian Independence Act of 1947. All those territories which were formerly British India and which were duly constituted into the Dominion of India are set out in it and therefore India is the successor State. Whatever obligations rested on the British Empire, either by statute, convention, law, international practice or common custom, devolve upon India. In that way we have taken on obligations which we otherwise would not have taken on, and the representative of the United Kingdom knows well

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that we have not gone back on that position, even though the responsibilities have sometime been onerous.

To suggest, therefore, that when the British went away whatever treaties or agreements there were in regard to these matters have disappeared, is a suggestion the purpose of which I do not know. The foundation of the constituent relationship of Jammu and Kashmir to the Union of India arises not from any treaty made by the British with somebody else but is part of the agreement to which Pakistan, India and the United Kingdom were parties, and even if it were true that previous—foreign treaties—lapsed, no agreement of this particular purpose no tripartite agreement between those parties such as the agreement for the transfer of power, could possibly be washed out.

We want to place it on record that we do not accept the position stated here to the effect that because British power was withdrawn from India all legal obligations and legal rights and everything else that flows from the position of a successor State departed with them.

From that, the representative of China goes on to say that India refuses to grant a fellow Asian people, the people of Kashmir, the same right which it demanded from the British. Not only is the fact erroneous in more than one particular, because India has not refused to grant anything to a fellow-Asian people—the people of Kashmir are Indians like everybody else and have the same rights as other Indians, whether Hindus, Muslims, Christians, Jains or whatevr else they may be. There is no question therefore of making discrimination and there is nothing for us to reconsider in the matter. What has been conferred upon the people of Kashmir has been extended by the Union as a whole not in conferment of a gift but as the right of a constituent State. All those arrangements that come from the Indian Constitution and from the accession agreements, for example, are included. It is for a State, when acceding, to decide for itself what it is willing to hand over to the Central Government and it is only in regard to defence, communications and external affairs that there is any obligation. That is the position of Kashmir as it is that of every other constituent State. I therefore submit that this statement is historically

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in error and that is what we want to put on record in order that there may be no question of challenging the position of the Government of India.

We cannot ignore observations coming from our very esteemed friend, General Romulo, the Philippine representative, in regard to this problem. General Romulo tells the Council :

> "It is clear that any claim by one party or the other that any portion of the State of Jammu and Kashmir is Indian or Pakistan territory would be highly prejudical to the implementation of the two resolutions previouly accepted by the two parties." [*798th meeting, para. 31*].

I submit that this is completely contrary to the resolutions as they were passed, contrary to the Commission's findings and a contradiction even in respect of the resolutions. As I have pointed out so many times, there is no reference to Pakistan in these resolutions. The obligation is all placed upon India and has been based upon the thesis that sovereignty rests there together with the rights of defence and the maintence of order. I think this must have come from some misconception of the situation. When the questson of the *Azad Kashmir* Government came under discussion the Commission expressly informed the Government of India that there would be no change in sovereignty or status and that is one of the reasons why the *Azad* Government was not recognized. We did not recognize it, and even the Gavernment of Pakistan said at the time that it did not recognize it. So it seems to me quite clear that recognition of the local authorities, that is to say recognition that the local authorities were a fact, in no way changes the sovereighty of India. It is therefore entirely incorrect from the point of view of the Security Council resolutions and the documents of the United Commission for India and Pakistan, which are plentiful in this matter. Even if a different view is held, these facts cannot be changed. It is not a question of whole territory it is, whether it is Indian or Pakistan territory. It is Indian territory, part of which is effectively under Indian occuption and the rest of it is under invasion—illegally annexed by Pakistan.

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The representative of Iraq made certain references which call for some elucidation. Here again we do not regard any observation made by any member of the Council, whatever its political or military relations with us, as anything but a representation of their own views. The representative of Iraq said :

> "The representative of India saw fit to enter into a discussion of the purposes and objective of alliances and pacts, and he made a point of mentioning several times during his statement the Baghdad Pact, in which my country is a participant." [*797th meeting, para. 76*].

We have always said, and did so in the case of United States military aid to Pakistan, as in the case of the latter's membership of the Baghdad Pact, that as sovereign countries it is up to them to join this pact or the other. But also as a sovereign State it is for us to express how the pacts affect us. That is all we have said and whatever statements I have made here have had no other object. In any case, what we said was that Pakistani statemen have stated their purpose in joining the Baghdad Pact was different from what was intended : We made no reference to Iraq policy in this matter and we made no reference at that time to the Baghdad Pact countries having anything to do with the Kashmir question, but now that this has been raised by Iraq, I propose at the appropriate time to produce official statements as to the views of certain Baghdad Pact members on this question.

The representative of Iraq said :

> "To accuse Pakistan of trying to involve other peoples of the Middle East in what the representive of India termed Pakistan's aggressive intentions againt India is contrary to the fact of the situation and surely a reflection on the intentions and intelligence of other members of the Pact." [*797th meeting, para. 78*].

I leave it to the Council to say whether that is the kind of statement that ought to be made about us in regard to any

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strictly political submissions which we may make to the Council. We do not insult the intelligence of other people, because we do not like our own intelligence insulted.

The Government of Iraq handed over at New Delhi an aide-memoire on 26 June 1956 in which it said :

> "The Government of Iraq desires to point out that the Kashmir question is a factor of restlessness and tension and it has its effects on the security of this area, and Iraq being a Member of the United Nations and the Baghdad Pact, feels that it cannot but be interested in anything that upsets the security of this area, which is on the whole linked with the security world"

By implication the suggestion is that we have been threatening somebody's security. Nobody has suggested that we have been guilty of acts of aggression. I stated here in this Council, on behalf of the Government of India, that, as at present constituted and for present considerations, our rights across the cease-fire line in the occupied area are legally, politically, morally, internationally, and every way justified and any step which we take to restore our authority will be justified. What is more, it is assured in these resolutions in that the Commission itself agreed to our having a force on the frontier to protect our land under certain conditions.

Besides, the Commission has set out that in regard to this area on the other side of the cease-fire line, these local authorities were to function under the surveillance of the Commission where necessary. They were on our sovereign territory. Therefore, when the representative of Iraq says that there is no relation between this and that—I did not intend to bring this up, but since the statement has been made, which is none too friendly, I thought that the Council might have the facts. This was not a mild statement made in a newspaper, but a formal protest in a statement by the Iraqi ambassador in New Delhi on 26 June 1956. It is not as though the Iraqi ambassador said anything against us; it is part of the Baghdad Pact view. This Barittsh cannot tell us, because they are friends of ours. I am

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not saying the Iraqis are not, but the British are particular about what they say. They do not like to be put in the wrong. They do not like to be put in the wrong. They do not tell us these things, but the Turkish Government did. The Turkish Government did. The Turkish Government's aide-memoire on 4 May 1956—not very far from 26 June 1956—said :

> "Since the Kashmir problem is causing anxiety in a country member of the Baghdad Pact [Now what more evidence is required that these things are connected?] it concerns the other members of the Pact and, consequently, Turkey."

If this is not a military pronouncement, what else is it ?

The aide-memorie continues :

> "Since the Kashmir proplem is creating unrest in the Middle East [I have not heard that the Kashmir problem was creating unrest in the Middle East. There are many other problems that are creating unrest in the Middle East about which the Baghdad Pact was able to do nothing] it concerns the Baghdad Pact, which was set up for defence of that area and which consequently concerns Turkey as well."

I should like to ask both the representative of the United States and the representative of the United Kindgom some time whether this last statement is correct in regard to all the members of the Pact. Is that statement a defence against us, or do they challenge it ? Do they subscribe to this statement because it is spoken on behalf of the members of the Baghdad Pact ? I do not hold the United Kingdom responsible for what the Turkish and Iraqi Governments say, but here is public statement handed over as an aide memorire on 4 May.

We had no intention of bringing all this out and, in fact, we should like to confine this problem to its narrow Kashmir limits except in so far as we are engaged by these resolutions.

Before I leave this question of aggression : it has been said that there has been no aggression by Pakistan. It was so stated

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in the beginning and, apparently, if the view is to be entertained —as the Council has not pronounced itself on this—then I think it is better to go to a first-hand source; and that is Pakistan itself.

Pakistan told this Council that its armies entered territory of India for the protection of its frontiers. Pakistan informed the Commission that its regular forces had entered the State of Jammu and Kashmir in self-defence. One of the reasons stated by Sir Mohammed Zafrullah Khan to the Commission for the entry of Pakistani troops into Kashmir was the "protection of the territory of Pakistan from possible aggression by India forces" [*S/1100, para. 51*].

When we have come to this Council and said that we do not want to deal with this aggression by the invasion of Pakistan: when we have called back troops that had advanced ; when we have placed the stress on the suspension of hostility; when we were making all these efforts, the Foreign Minister of Pakistan said that he entered what, as I han pointed out, is the sovereignty of the Union of India for the purpose—not because they were attacked—of making a protective arrangement. If this is not expansionism, then what is expanionism ? To protect the frontier of one's country, one enters the other fellow's country. While we did not, even by taken invasion, go on to the other side, the entry of Pakistani troops into Kashmir by forces was for the "protection of the territory of Pakistan from possible aggression by Indian forces". What country is safe in this world if another country, because of possible aggression, is going to lead its troops in there ? There will be no frontiers because, to protect a frontier, there will have to be another frontier, and so on. This is what the Viceroy of India, Lord Curzon, called expanding the frontier.

If any final proof were necessary, then, it is the statement made to this Council by no less a person than the fromer Foreign Minister of Pakistan, who is now a Judge of the International Court of Justice, that the Pakistan army entered the territory of Jammu and Kashmir not only to protect co-

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religionists, but in order that the Pakistan frontier might not be invaded by us.

We do not wish for the time being to go into the next phase, but if it should become necessnry we would be prepared to produce evidence for the Council showing what plans for the invasion of India were prepared at that time and by whom. We are anxious that this debate, however much we may be in our rights, in presenting facts, does not bring about facts that create more friction between countries and, as I said, we wish to inform the Council—not because the United Kingdom representative needs to know it he knows it, and our relations with the United Kingdom are so close, and while we may disagree with it, we have no desire to cause irritation, and we are honestly convinced that a great many people in England want to see an end of this question but they want to see it end in their way—that the invasion of India was calculated. What is more, it was calculated for the purpose of the protection of Pakistan and it was an attempt at forestalling at pushing away the invading force coming from the Uri-Poonch-Naoshera area, which was part of the sovereign territory of Jammu and Kashmir.

Finally, when we continue this debate, I would like to deal with the suggestions which have been made and to which I come in a moment.

Both Sir Pierson Dixon and Mr. Wadsworth, the representatives of the United Kingdom and the United States, have said, as would be expected from them, that we must proceed from the easy positions to tackle the difficult ones; must accept areas of agreement and make use of them before further progress can be made.

If I may say so with great respect to Sir Pierson Dixon, this reference to "areas of agreement" is a classical British phrase in connexion with the Kashmir dispute which was first used by Mr. Noel-Baker of Corfu fame. Sir Pierson Dixon said that we should determine those points "where there is some area of agreement between the parties and to see whether progress can be made from those points." [*797th meeting, para. 11*].

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What areas of agreement ? We do not agree and Pakistan does not agree with regard to aggression. How can a country that is invaded agree in this way ? There are no areas of agreement except that we are engaged by these resolutions. What these resolutions mean, however, is a mattet which must be decided on its merits. We are not prepared to accept an interpretation of these resolutions which is not consistent with the facts or which has not been accepted at a previous time. We are not prepared to say that because exploratory discussions may have taken place at any time, that is the way. We shall deal with that under demilitarization.

While it is always nice to approach a problem from an agreeable and a peaceful point of view—and that is the only approach we can make—we may not just get lost in these words, "there is some area of agreement between the parties". There is always some area of agreement. But to suggest that all that is required is some small matter is not sufficient.

The representative of the United States stated :

"The present case is different from that of many problems which are brought before the Security Council : we are fortunate in having an area of agreement—and a large one—between the parties and with the Council." [*797th meeting, para. 31*].

But I am afraid that there is a large area where there is no agreement—the 42,000 square miles of our territory that is under occuption. It is a very considereable area. I am not comparing this State to the United States, but I believe it is a pretty large place. Therefore the areas of agreement in stricter political terms must be confined to our engagement by these resolutions.

The Government of India stands committed by the Security Council resolution of 17 January 1948. We shall do nothing unless attacked to move from the positions that existed at the time either to augment our forces or to take any action. We shall at no time indulge in hate propaganda or psychologi-

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cal warfare. But we object to psychological warfare, to the introduction of religious fanaticism in these things, to the stirring up of people on various grounds. Assuming for argument's sake that sabotage and destruction were going on inside Kashmir by terrorists or whoever it may be, when we may have got those facts for the information of the Council to show the complicity of the other side in this matter and see another phase of what was going on, what was the response of the Foreign Minister of Pakistan ? His response was, "Well, if they have trouble, it is because the people are discontented." Is that the answer of one orderly Government to another, to say that if there is sabotage or distress in one country, they deserve it because they are not well governed ? It is surely the distress of the people. I have produced evidence and, what is more, the evidence is being given in the law courts. The approver in this story was received by the Foreign Minister of Pakistan and called as evidence.

To suggest, therefore, that there is an area of agreement when there is promotion of this sort in our country is an attempt at underground rebellion. It is no answer from Sir Pierson Dixon—while we welcome it—when he says that he is very sorry to hear about this matter. So are we. We regret it. Terrorism does not get anybody anywhere. What is more, it is only when there is no mass support of a movement by individuals that there is sporadic violence. If there is mass support, then small efforts at violence are not necessary. Killing off people here ; putting a bomb in a mosque and saying a Hindu did it ; putting a bomb in a Hindu temple and saying a Moslem put it there—this sort of thing is done only because there is no mass support in order to create mischief.

To say that this represents areas of agreement is far from true. The only areas of agreement are the engagements in these resolutions—by the Security Council resolution, which we have accepted fully, and in regard to the two resolutions of the Commission, having full regard for the sequence, the assurances that have gone with them and the conditions under which they were adopted and, what is more all the other submissions that we made the other day. India has no desire to back out of any

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international obligation. But equally it would be rather inappropriate, in my submission, to hold that something is an international commitment when it is not so. The commitments such arise in regard to the resolution of 13 August 1948. Unless part I is performed, part II does not exist. Unless part II is performed, part III does not come in. What does part III say ?

> "The Government of India and the Government of Pakistan raffirm their wish that the future status of the of the State of Jammu and Kashmir [I would tell my friend from the Philippines that there is no reference to the present status of Jammu and Kashmir being anything else] shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consullations with the Commission to determine fair and equitable conditions...". [*S/1100 para. 75.*]

So it has nothig to do with discussing the present status at all. It is a matter of a peace arrangement to determine what can be done about the future.

Whatever that may be, I should like to ask the representatives of the United States and the United Kingdom to bring some realism into this talk about areas of agreement. And the way to begin is with the vacation of aggression. We do not say that part I is the whole of the resolution. In view of what has been going on in the last ten years, the peoples of India and the world are able to believe that part I will remain unperformed, for it is not sufficient for these armies to march nine miles and for hate propaganda to cease for a week. It is necessary for us to feel safe and secure in our own lands. We have no desire to go anywhere else.

In my statement of 9 October [*795th meeting*] I remarked on the meaning of the contents of this expression "vacating of aggression". It means vacating annexation. I would like to ask the representative of the United Kingdom : How can it be said on behalf of the United Kingdom that there has been no violation of the spirit or the letter of the Security Council

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resolution of 17 January 1948 when great parts of this territory —nearly half of it—have been annexed to Pakistan, ruled by it? What is more, I have produced before the Council the budget estimates of the Pakistan Government showing allocations. I cited documents which show that even the very information centre in this country of the so-called *azad* Government is run by the Pakistan Embassy. Therefore, when there is an annexation of this kind, how can the United Kingdom tell us, "We will forget the past and see where we are." That is to say, the vacation of aggression, the removal of this cause, the removal of the violation of our sovereignty. Trying to determine these matters by force, taking the law into one's own hands and invoking the Security Council—that is not the position a self-respecting country can accept. Nor can we in fairness to our people and the security of our territory accept that situation.

The first step, therefore, in order to bring about this atmosphere of areas of agreement is to perform part I of the resolution of 13 August 1948 according to the construction of this resolution, according to the whole history that has gone behind it, according to the written assurance for the various Chairmen of the Commission, Mr. Lozano most of all. These are not individual assurances. They are documents which are based on these adopted resolutions.

Unless part I of the resolution is performed, part II does not come alive. It is just latent. It has no meaning. Part I is performed by the total vacation of aggression. We are not talking about Part II now or the forces that come under it, but the forces that have come to the State since the passing of this resolution, their removal, the de-annexation of the territory, the stoppage of psychological warfare and of the encouragement of subversive activities inside our country. I do not mean the expression of political opinion. We do not object to that. I mean either the financial or physical aid to subversive activity that needs to be found out. Unless these things cease, part I is not operative. And if Mr. Jarring has said one thing, it is the statement without a doubt that he has established that part I is the cause of the deadlock. That is the position.

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At the next session of the Security Council, with your permission, Mr. President, and while we do not accept any of the statements that have been made on its behalf by the United Kingdom or by others, we will deal with the problem of what is called "demilitarization" and the Graham reports.

It will be very inappropriate for us to take this piecemeal. It is a very large problem by itself. But I would like to say here and now that we cannot agree with the statement made by the representative of the United Kingdom that demilitarization fares so well in all these resolutions that have been spoken of. In fact, the expression "demilitarization" does not occur anywhere in the resolutions. There are some arrangements the effect of which would be to lessen the military potential in two different places.

But the suggestion that is given that the key to this is all based demilitarization, and so on, that is not correct. Anyway, I would not like to deal with this piecement. What is more, I would like to submit that while our position is that part I is not performed, and part II is not worth debating, we feel that the debate in the past has been fluctuant. What is more, we have learned by experience that any constructive suggestion one makes is likely to be gotten hold of and used against us. Therefore we have to proceed in this matter with the necessary caution.

In view of the sources of the suggestion at this moment—the United States, the United Kingdom and others—and what is more, in view of the fact that the Security Council is being treated to this, it is our duty to express our opinion on that matter. Furthermore, we would not like to show any personal disrespect to Dr. Graham, but we are prepared to deal with these matters of Mr. Wadsworth's statement, that this session pro.eeds from the Jarring repo.t, added to which is Dr. Jarrings own statement that the deadlock is centred on the part I of the resolution of 13 August 1948.

But if the permanent members of the Security Council make a proposal of this kind, who are we just to ignore them ? Therefore, we are quite prepared to express our position in

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regard to this matter. However, I would like to say that there are no proposals before the Security Council. Neither we nor Pakistan, under the Charter, are entitled to make proposals, and we have no desire to make any. The Council has been called, at the instance of Pakistan, for the consideration of this question. At the present moment, therefore, when we next meet, we would be in a position only to deal with the issues posed in this matter by the United Kingdom and the United States, and supported by one or two others; not quite fully, but it something is being done, they will not object to it.

It will be our submission that it is only fair to the Government of India that the background of this toil—and, what is more, we say this in all seriousness to the United Kingdom—the security of India and its integrity, and the condition of its people, are of great consequence to our two countries. Therefore, when these problems are tackled, it would not merely be an academic exercise; we would submit all the considerations that go with them, even on the assumption that we are doing this because the suggestion has been made, not because there is any change in our position in regard to the augmentation of forces, the definance, the cumulation of aggression and augmentation that has gone on since the invasion began, in definance of Security Council resolutions.

I am sorry that it has taken so long, but there are some members of the Security Council who have views different from ours, as is to be expected, and I am here to represent the views of the Government of India and the Indian people on a case that is getting somewhat ancient with the result that facts which were fresh in people's minds seem easily to be forgotten.

That alone can explain my good friend General Romulo saying that neither Pakistan nor India can have any sovereignty in this territory. We are weighing matters which were commonplace, which were not regarded within the realms of question by the Commission. Now that is forgotten and something new is brought about. Therefore. when the delegation of India, whether represented by me or by anyone else, has to remind the Security Council of things that are established, it is not

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possible, in a matter of this kind to proceed if at each sitting we are going to scrap what has been done by way of gains. Therefore, we have submitted this to you.

We will make the submissions at your convenience, Mr. President, at the next meeting of the Security Council. It has just been put before me that the Commander-in-Chief of the Pakistan Army informed the Commission in 1948 that the purpose of sending Pakistan troops into the State was to hold the general line of Uri-Poonch-Naoshera. This line runs north along Western Kashmir.

Therefore, there is no question to us about the invading army. I also read out the statement of the Foreign Minister of Pakistan. I would like to conclude by saying that while some of these facts are unpleasant and they have the effect which was hinted at, though in the wrong instance, by my friend, Mr. Walker, the representative of Australia, it is only when, as in the case of the Baghdad Pact, we are pushed into so doing, that we produce them.

174. *Text of the speech made by Mr. Krishna Menon (India) in the Security Council meeting No. 800 held on 11 November 1957.*

In my last intervention a few days ago before the Security Council [*799th meeting*], I dealt with part of the observations that had made by the members of the Security Council and by the representative of Pakistan in regard to this question which, as was rightly pointed out by the representative of the United States, arises from the report of your predecessor, Mr. President, a past President of the Security Council.

In recalling the submissions I have made to the Security Council, and also reminding myself of my undertaking that so far as we are concerned, whether the observations were made by the permanent members or by the non-permanent members, they were all members of the Security Council, and that it was our bounden duty, therefore, to reply to each of these observations, I find that there have been two substantial omissions in

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First of all, the representative of Cuba, with the very understandable insistence on what he speaks of as "self-determination", spent the greater part of his argument on this question (*798th meeting*). I have no desire to weary the Council with the legal or the international precedents on this question which are largely derived from the experience of the United Kingdom and the gruesome experience of the United States. We as signatories of the United Nations Charter subscribe to the main principle of self- determination where it applies. In regard to the issue before us, in answer to one of the representatives who spoke before and who argued that India had established its independence on the basis of its justified demand for self-determination, we repudiate that. Our relations with the former imperial authority were not established on the grounds of self-determination. It was an *ad hoc* agreement and, whatever our troubles in the past have been, at a later stage we decided in the mutual interest—in the interest in the United Kingdom as well as of India—that it was better to have the transfer of political power in the way in which it was accomlipshed. This was purely an *ad hoc* arrangement which was not based on religion or upon the principle of self-determination. If it had been so, then the British would have stayed there until our Constituent Assembly had finished; that is to say, the representative of Cuba would regard, which he may not, the Constituent Assembly as self-determination or that there had been some process of self-determination. I have no desire to refer back to those arguments. However, in regard to this issue before us, we are dealing with a constituent part of a federal union. It may not affect Cuba, which, if I am not mistaken, is a unitary State. I may be wrong about this, but any federal State, the Constitution of which provides for the right of withdrawal of its constituent units at any time would have a Damocles sword of dismemberment hanging over its head for all time.

The members of the Security Council may remember that during the series of meetings held in January and February 1957, when this matter came up, while we were quite sure of this matter, and I dealt with one of the observations only in part.

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the substance of this matter, we wanted to make ourselves doubly sure that the position was substantiated by the law appertaining to the three parties. And one of the three parties is Her Britannic Majesty. I am quite aware of the diversity of constitutions in Her Britannic Majesty's realms, but there are two or three subservient considerations. One is the rule of law; the other is the sovereignty of the State and the third, which should be put first, as I would like it—not that I need to remind my colleagues—is the sanctity of agreements. Therefore, on the last occasion, when a comparatively new State—not a new people, because they came from the British Isles—on account of internal circumstances, when Western Australia decided to secede by a majority—I believe, speaking from memory, 130,000 or 133,000, or something of that kind—the matter went up before the House of Lords and any question of secession was put on one side.

I want to say here and now that unless we of our own free will decide to have a different Constitution in the future, the peoples of India are determined to defend the federal unity of their Constitution. For years we have resisted the attempt of reactionary people in our own country, those who did not wish us so well in other countries, and those who misunderstood our situation, notably the Canadian authority who spoke about the balkanization of our country. Therefore, we are not prepared to go back on that question. There is no issue.

What I want to emphasize is that self-determination is a nice word; it is a very nice principle. It ought to be applied to all those countries where, by force of arms, by the vicissitudes of history, people of different culture, different interest and different territories are held under by a colonial Power. If Cuba were under the domination of Spain—which we are glad it is not at present—its demand for self-determination would be quite correct. But without making any irrelevant references to the internal affairs of Cuba, any disturbance, any kind of discontent against the existing authority in Cuba, whether the form of government is one of which any particular member of the Security Council approves or not, we would not think that

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in terms of the Charter—and we would be the first to resist it —there is a case for self-determination. This can only be applied to the dependent territories governed by a colonial Power. This expression cannot be used in regard to a constituent unit like Minnesota, which forms part of a federal Union.

Our country is one and, weak as we may be, and unacceptable as some of our ideas may be to some of you, we have an obligation to defend the unity and the integrity of our territory. This was the reason why, with great pain and with some trepidation, after Sir Pierson Dixon had spoken at the 797th meeting, I expressed the view, on behalf of the Government of India (*799th meeting, para. 63 et seq.*), that while we agreed to some of the arguments that have been put forward, others affected the integrity of the Union, which is as much the creation of the British people, their Parliament in Lords and Common assembled and with the *Imprimatur* of the Royal Seal, based upon the consent of our people, by negotiation.

Therefore, we would have passed this over. But knowing the Security Council as we do, I am aware that it is always possible to put forward a slogan, a phrase, an idea, especially when, and I say this with great respect, it is quite impossible for the members of the Security Council to have meticulously followed, all the debates that have gone on here, going into volumes, the materials that have been submitted and what is more, part of the material which are assurances, guarantees, all on behalf of the Security Council, though it happens to be by the representative of a Latin country. I would like to request the Security Council not to be misled by this rather facile, plausible argumentation, pleasant to at least half the members of the Security Council (I do not say which half) over the principle which we have involved in many circumstances.

We say that it is an established principle, so far as India is concerned, that the ruler in an Indian State is the Head of a State. Why Indian State? Whatever may be the factual position, today, in law, in formality, in the completion of action, Sir Pierson Dixon would be the first to admit that no action can be taken on behalf of his country except through the Head

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of the State. It is a well-established principle that the ruler of the Indian State represents the people, for these purposes, to the outside world, not to themselves; there may be any amount of trouble with the people. For a hundred years the United Kingdom has disregarded a great many considerations which they cherish in their own country, in order to defend the rights of other principles. I could quote if it were so needed—I do not propose to do so—scores of instances proceeding from the time of the Marquis of Wellesley who afterwards became the Duke of Wellington; I could quote large numbers of instances where British blood was shed in order to defend this principle.

I am free to confess that while in some cases it might have been nineteenth-century imperialism, in a large number of cases it was the defence of a principle. When the Cabinet Mission visited India—and the Cabinet Mission was not a private picnic party—it was a negotiating body on behalf of Her Majesty's Government, having the support of the entire Parliament and of both Parties and, what is more, whose agreements became afterwards the basis of the transfer of power to India. We, at that time, were not versed in the niceties of constitution. We were a rough and ready popular movement, and when the Cabinet Mission, composed of men who believed in the same ideas as the representative of Cuba advocates, were told that any agreement of the States could not be an agreement with the ruling princes only, that the states' peoples' organization, which corresponded at that time to the national movement in British India, had to be taken into account—not privately consulted—as one of the plenipotentiaries negotiating, this proposal was turned down flat, and two of the strongest opponents of it were those for whom the representative of the United Kingdom speaks and the founder of Pakistan.

Therefore, from the very beginning, when it suited them, there was no question of the people's organization, because the Princely States were not independent States. They had no international existence. From the time of the signature of the Treaty of Versailles in 1919, or whenever it was, and when the original of the Covenant of the League of Nations was signed,

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this matter, as Sir Pierson Dixon will recall, has been the subject of much discussion. That discussion was continued through the inter war years. It was embodied in a statute in 1935 (the Government of India Act, 1935). What is more, when his country, along with the rest of the world, was involved in the throes of Hitlerite aggression and the British Cabinet had to be made more representative of the countries of the British Empire, which was emerging into the state of freedom, this was not done on the basis of self-determination. It was not to the people's leaders, who were rotting in gaols at that time in the States, that the British Government looked; it was to the rulers of the States. And that part of the British Dominion in India comprising the Indian States was represented in the Imperial Cabinet by a ruling prince not selected by the people.

So, while we do not in any way advocate a divine right of kings, we are dealing here with a political issue. Even of every single person in Jammu and Kashmir, or somewhere else, had signed an insrtrument of accession, it would have no value. This instrument of accession was not our device. We accepted it; we are glad we accepted it. But it was a device forged by the genius of the British people long before we became independent. Even in conditions of semi-independence the British Government of the day, or at least its more far-sighted members—being concerned with the maintenance of the unity of all the territory that lies at the foot of the Himalayas and is in the lap of the Indian Ocean and was under British suzerainty—minus that which had been cut off in 1935 —provided for machinery whereby the States would accede in this way. Therefore, an instrument of accession, if accepted by the Governor-General, was not only sufficient : its competence was exclusive. We could not go any further to effect the Union. The people of India were represented by the Governor-General, who has ceased to be the Viceroy, to whom the power of the Indian people had passed, and that was how this happened.

Now let me proceed to something else. Supposing the proposition of the representative of Cuba was accepted. This would apply to somewhere about 350 units of the present

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Union of India, and we are in no position, even if we had the energy and were prepared to countenance it, to accept a proposition which means the factionlization, the balkanization of India for what the representative of Cuba regards as an abstract principle which does not exist.

The British Government always recognized the rulers of the States as the legitimate authority. Because we were a popular movement, and because we were faced with resistance from two sides, from Pakistan on the one hand and from the United Kingdom on the other, for all formal purposes we accepted their position, and for all factual purposes we obtained the best we could—for there was no parliament in those areas; they were feudal areas, thanks to the protection afforded by the British Crown.

Then, it may be asked, why does this whole question of this plebiscite figure. In the whole of this controversy this is purely an *ad hoc* suggestion—not an arrangement arising out of the resolution of 13 August 1948—for the purpose of terminating bloodshed. It was not an abstract principle. It might even have been that, instead of that one, we might have agreed to a division of the State into one hundred parts—or into two parts, as, indeed, Pakistan has done. But so far as the consultation of the wishes of the people is concerned it has only the significance of a domestic election. That was an obligation that a democratic and freedom-loving country like ours undertook towards the people of India, and it has been carried out.

Even assuming that it was called a plebiscite, that plebis- must take place under the sovereignty of the Kashmir Government and under the authority of the Government of India, as I have repeatedly pointed out in the earlier discussions of this year—not from my mind and not from anywhere but the documents to which the members of the Security Council are parties, taking the Security Council as a body and having regard to the fact that its permanent members are individual parties because they do not change. Time after time it has been said in the resolution of 5 January 1949 (*S/1196, para. 15*)

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that any of these arrangements must, as I say, take place under the sovereignty of the Kashmir Government and the authority of the Government of India. I request the representative of Cuba—and perhaps he can consult his colleague from Colombia—to show me one place, not in the resolution, but in the large number of documents, where the Security Council departed from this position. It is quite true that certain resolutions were passed, but, in any of the findings, in any of the arguments, in the agreements with us, there is no mention of any other country—be it the United Kingdom, be it Pakistan, be it the Security Council—that has the authority in the State of Jammu and Kashmir. It is the Government of India to which the Security Council turns in order that part I; paragraph E, of the resolution of 13 August 1948 (*S/1100, para. 75*) may be implemented.

I ask my friend from the United Kingdom : Has not the time come to put partisanship on one side in this matter and deal with this in the traditional British way and with common sense? After all, the Commission agreed that "part III, as formulated, does not in any way recognize the right of Pakistan to have any part in the plebiscite". (*S/1100, para. 78.*)

Now, if Pakistan has no part in the plebiscite, it really becomes a domestic matter. And, while the Government of India could have turned around and said "We have changed our minds; it is a domestic matter", we did not do so. We waited impatiently for three years, hoping that the Security Council, in its wisdom, and all the talent assembled around it —and all the issues involved—would find some way of resolving it. And, when that was no longer possible, we consulted the wishes of the people. We did not consult them privately; we did not consult them by selecting the people who were to be consulted. We consulted them by a normal process of democratic election—not even for a parliament which we established, or the existing Government of Kashmir established, but for a Constituent Assembly.

This will become a little more significant when you refer to the correspondence or, rather, the assurances given by Mr. Lozano, and I would particularly invite my colleague from the

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Philippines, whose addiction to the truth and the correctness is well known, to look into these documents. I mean no disrespect. The Security Council deals with large numbers of problems—Syria, or the Israeli-Egyptian border, or I do not know how many questions. You will not find anywhere anything contrary to what I have said.

Now let us go further. In the resolution of 5 January 1949, (*S/1196, para. 15*), which has to be read, as all documents, are read, in the context of events, in the context of international law, and, what is more, in the express statement of the Commission itself that this is not a seperate resolution. This resolution of 5 January 1949, was produced, and we acquiesced in it, in order to get Pakistan to agree to a cease-fire, because their whole position was : no cease fire. And it is expressly stated that this resolution is subsidiary. I am sure my friend, the Australian representative, will explain what "subsidiary" means in historical terms. A subsidiary problem has no existence outside the principal problem. If the principal problem does not emerge, the subsidiary one does not emerge. A subsidiary has only a satellite existence—oh, I must not use that term. If we do not reach the stage of considering part III of the resolution of 13 August 1948 then the resolution of 5 January 1949 will be no more than an interesting document for future historians. I dare say that in a hundred years people who have greater experience than ourselves —not because they are superior human beings but because they will have the advantage of our mistakes and our achievemeuts —will discover that this is not an isolated document. It may be that the first sentence should have been put last. But, you know, our people have been, in this matter as in all other matters, willing to sacrifice unnecessary punctiliousness for the purpose of agreement.

Now, what does the resolution of 5 January 1949 say ? The Plebiscite Administrator, if a plebiscite ever came about—and we then hoped it would—and if there was any chance of an honest plebiscite, knowing the conditions in Pakistan and knowing world conditions to which Mr. Jarring has referred—we must put that at one side—but the document says: "shall

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derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite, and for ensuring the freedom and the impartiality of the plebiscite". So there was only one authority, whether it be in the northern areas, to which I will come soon, or whether it be in the other area in regard to which the predecessor of the present representative of Pakistan stated before the Council with, I am sorry to say, a degree of lack of that reservation which he should have had, that our country was attacked by the Pakistan troops, in order to protect, not Kashmir, but the frontiers of Pakistan. Now, if any of you gentlemen around here were faced with the situation that, in order to protect the integrity of some other country, it was necessary to lead aggressive armies of your own, we would not accept it. But that is by the way. So the resolution definitely said : "shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite..."

Now, I hope will not be accused of departing from punctiliousness if I say to my friend Sir Pierson Dixon and his advisers that this was not as though this thing was put there casually, without consideration. This particular paragraph of the resolution had been resisted by the gentlemen of Pakistan. The Commission had gone into it, and at no time had the Commission ever departed from the position that nobody could give any authority to a plebiscite commissioner except the constituted Government of Jammu and Kashmir, a Government in the Union of India, established by Act of British Parliament, which received royal assent in July 1947, long before any accession issue arose.

We have great respect for Pakistan. We have great affection for the people of Pakistan. I am not saying this is a patronizing way. We wish the people of Pakistan well; I hope that they wish us well, But the fact is that no condominium is involved in this matter. This becomes significant because the present Secretary of State for Foreign Affairs of the United Kingdom is credited with saying—I refuse to believe this, because he is an intelligent person, a person of integrity—that

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some sort of condominium is possible in this area. That would be a violation of our sovereignty, and I should be amazed if it were true that a member of Her Majesty's Government had made such a suggestion.

In the early days of the Second World War, when it seemed to some people—but not to me or to Sir Pierson Dixon—that there was a possibility of defeat and annihilation, a proposal, which afterwards proved to be propaganda, was made that the French and the British should unit as one kingdom. I lived in the United Kingdom at that time, and, although that proposal received a certain amount of support, I could not find any group of British people who were prepared to sacrifice their sovereignty.

Sir Pierson Dixon has referred very kindly, very generously and with deep feeling to the events of 1947. I can say that despite the extremities with which we were confronted at that time, despite the fact that we were facing famine, we would never have agreed to any resolution which violated the integrity of our territory. This is all in the record.

This Council, Mr. Jarring and Mr. Graham and all their predecessors, the Commission for India and Pakistan—in fact, everyone connected with this case have limited the consideration of the problem to three resolutions. Pakistan conveniently—or, rather, I would hope, inconveniently—ignores one of those resolutions.

During these discussions in the Security Council, there have been repeated references which, in a very nice way, give the implication of a degree of moral pressure upon us. These reference have come particularly from the representative of Australia, but other representatives have also said that we should carry out whatever we profess, whatever we advocate, whatever we have fought for and sacrificed for.

I say here and now that the Union of India, as constituted, is not a confederation. We do not believe in the thesis of the Soviet Constitution. which permits every constituent State to walk out. On the contrary our Constitution is based upon the principle which was sanctified by the blood of so

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many Americans on both sides of the Mason-Dixon line—the principle, which has now become part of history, that a Union is inviolable. Anyone wishing to cut our Union asunder will have to reckon with 367 million of our people. No Government in India can sacrifice the unity of our territory, can open the doors to India's disintegration, can make our country a happy hunting ground. Our unity to a certain extent makes up for our lack of strength in the economic and other spheres. No Government in India could survive if it sacrificed our unity. And I would say to the members of the Security Council that if there is no stable Government in India it is extremely doubtful whether there will be stability of administration anywhere else in that part of the world. We happen to be a stable administration; I do not wish to hurt anyone, but we are probably the most stable administration in a large part of Southeast Asia. I therefore beg the Security Council not to address to us an agreement which, in effect, implies the dismemberment of our country.

Unlike the Constitution of Australia ours is not a confederal constitution. No referendum is required in the case of our constituent States. As a matter of courtesy, there is a provision about discussing matters in the local assemblies. We are free—in fact, this freedom has been exercised—even to change the boundaries of acceding States. The British Government recognized that fact even before it left India, and during the last five or six years, when some acceding States have become parts of other areas, I have heard no adverse comments from distinguished people in the United Kingdom itself; quite the contrary.

The State of Jammu and Kashmir, except in so far as the Constitution decides, is in no way bound by any external authority. We are bound by international law and by international practice. There cannot, however, be a separate international law for us. It has been laid down by scholars from the time of Grotius—and, today, the most outstanding exponents of this principle are a United States citizen, Professor Hyde, and a United Kingdom citizen, Sir Arnold McNair—that, whatever be the nature of the treaty, every

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treaty must be observed and carried out by a country with primary and primordial reference to its own security. No country can carry out a treaty in any other way.

I have taken somewhat more time on this aspect of the matter than I had intended to take, because I know the feeling that prevails with regard to the question of self-determination.

In the Third Committee of the General Assembly, where the United Kingdom meets with us, there have been many arguments about this. These words cannot be abstracted from their context. We shall come to that in a moment.

The next grave omission that I made was with regard to the representative of Sweden, not to the past President of the Sacurity Council. The representative of Sweden made a suggestion, though I do not know whether or not it was a suggestion, but we have no desire to avoid any idea that is put forward. That has been our position for the last ten years, and I request Sir Piarson Dixon and, even more, his advisers to give us some credit for this fact. Nowhere more than in the United Kingdom is the free exploration of ways of settlement more rampant, more prevalent, or more practised in good faith. But, as I shall point out later when I come to the second part of my intervention, we have taken pretty good care, not because we were trying to set the ground for a future battle, but because it arose in the circumstances of the time as to why, how, in what circumstances and with what limitations we went into the speeches of Mr. Graham.

Mr. Jarring, as representative of Sweden, has made certain "suggestions". I call them "suggestions" in inverted commas because, reading the text, they do not look like suggestions. As representative of Sweden not in presenting the Jarring report, Mr. Jarring said :

> "Before I proceed, I should like to recall that the Swedish Government, [not the past President of the Security Council, not the author of the Jarring report] as other members of the Council well know, has during the current year suggested that certain legal aspects [the

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emphasis was on "certain") of the question might be referred to the International Court of Justice for an advisory opinion. My Government still maintains that this suggestion should, at an appropriate moment, be carefully considered. Although such a moment can hardly be said to exist today, (I suppose this comes from the Jarring report) my Government would nevertheless be interested to learn the attitudes, in principle, of the parties to this suggestion." [*798th meeting, para. 41.*]

I will not complicate this matter by going back into Swedish history, but what are we asked to do ? We are asked to address ourselves to "certain legal aspects". Is it possible —I do not say it is not correct because we speak here very freely—for any Government to answer a question on what are called "certain" legal aspects ? "Certain" is one of the those Anglo-Saxon words which have contradictory meanings. "Certain" in one sense means definite, precise, without doubt, and in the other it means exactly the opposite. Only in English does one find that. I leave it to the United Kingdom representative, who, though he is a classical scholar, probably knows enough English, to tell me what this means, that "certain legal aspects of the question might be referred to the International Court of Justice".

I want to say that my Government does not throw out of the window the jurisdiction of the International Court of Justice. We have to examine whether the reference to an advisory opinion, though not in terms but in spirit, is covered by the Commonwealth agreements in regard to compulsory jurisdiction, because, strange as it may seem, our ties with the people across our international broder are very deep and we do not want our relations to be those of two foreign countries. Therefore, I want to say here and now that we do not make any categorical rejection of any suggestion, but we should like to know what these "certain legal aspects" are.

If they refer to the issue of accession, it is a part of municipal law which only the United Kingdom, Pakistan and ourselves are familiar that with a concluded contract, not a

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mere scroll like the resolution of 13 August 1948, there is an offer and there is an acceptance. If there is a return deed, no memorandum, no oral evidence, no unwritten terms can be produced as an amendment. Consequently, we are in this difficult position. There are the parties to the accession, the Head of the State of Jammu and Kashmir and the Head of the then State of India, in 1947, the Governor-General. It is expressly provided in the Constitution, which we adopted from what was given by the British Parliament, that a ruler, not us, may vary the terms of the accession. The ruler may, but we cannot, vary the terms of the accession, but we could accept or reject it. There is no provision for a conditional acceptance. Nothing that we may express in the way of a wish can alter the sanctity, the completeness, the overall character, the legally binding nature of a contract. And the United Kingdom Government, ever since it was a democratic country after the Industrial Revolution, has had a great record, with unfortunate exceptions, of maintaining its international obligations.

We cannot, therefore, without further looking into this matter go further than we have done, but we want to inform the Swedish Government that we have not rejected this. However, certain conditions exist. First of all, it is for the Swedish Government to produce before the Security Council assurances from the Government of Pakistan that it will abide by the advisory opinion and that the person who is a Pakistan national, who was formerly Foreign Minister of Pakistan, who is a partisan in this matter and a fanatic, who is now a member of the International Court of Justic, will disqualify himself, legally and in spirit, in any argument on this matter, for, after all, it is known that in any court, strange as it may seem, the judges call each other brothers, and while a judge may not sit, the impact of his opinion is always there. That is why we do not rule that out.

Second, if there is a reference to an advisory opinion, then my Government has carefully to examine what are the questions to be referred—not because we want to pose any conundrums, not because we want to pose instructions, but because, under the general rule of both municipal and inter-

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national law, when a general proposition is referred, if anything is accepted, then it is assumed that we agree to accept that. Those of you—if there are any—who are not familiar with this have only to look into whatever corresponds in your legal systems to what is called a "general process act". Whenever we make an exception, whenever anything is specifically mentioned, unless there is a saving clause, whatever is not specifically mentioned is out. The problem has not arisen, because the representative of Sweden said : 'Although such a, moment can hardly be said to exist today..." But we are most anxious to meet you. Therefore, it is not sufficient to pick an issue on which the Security Council is least competent. That is the second point.

Now for the third point. If, according to private information—and, naturally, conversations must take place—the reference is on the one issue on which the Security Council has pronounced itself, the Security Council has pronounced itself on the sovereignty of the union, on the so-called sovereignty of Jammu and Kashmir. The Council has never spoken of Jammu and Kashmir as a no man's land, as a land of the Russians, or of the Chinese, or of the British, to which, going back to their relations with Pratap Singh, they can lay claim, or their successors, or the spiritual successors of the Emperor Asoka in Ceylon or in Siam or, in a minor way, in Japan, can lay claim because Kashmir was part of his Kingdom, of which Srinigar was the capital.

So, with regard to this matter, the resolution of 13 August 1948, supplemented by the resolution of 5 January 1949, places the whole question of the sovereignty out of the debate. I freely concede—in fact, we have seen it in the last ten years where foreign bases have been established in some countries—that there can be abrogation of sovereignty. Some countries argue that there are no bases, but where foreign bases are quite openly and, from the point of view of the countries concerned, quite legitimately accepted, there has been abrogation of sovereignty. Therefore, we are not prepared at this moment to disregard—I will not say "to go beyond" —the engagements—I deliberately use the word "engage-

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ments"—of the resolution of 13 August 1948 or the supplementary resolution of 5 January 1949 and the binding Security Council resolution of 17 January 1948. In fact, if I may submit with great respect, but for various circumstances to which I have no reason to refer, the whole of this debate ought to take place under the resolution of 17 January 1948, so that this question of referring the legality of the accession to the International Court would only arise, if we were prepared to have this matter referred, in the case of 560 states, some of which are no larger than this room—some of them have disappeared in the general process of industrial and economic expansion and what not—and if the Pakistan Government were willing to subscribe to it and have it applied to those States that have acceded to Pakistan.

Secondly, I am sure that the representative of Sweden would agree that it is more pertinent, more relevant, morally more correct, if you are referring to the International Court of Justice, to determine whether there have been violations. Does a violation not hit you more in the eye than whether something or other was incorrect? We have the dictum, albeit an *obiter dictum*, it is true, of Sir Owen Dixon that when these troops crossed the frontier they perpetrated a violation of international law. But I tell Sir Pierson Dixon: do not go further than that. Is he prepared on this day, 11 November 1957, when the world looks to him as one of the great moral custodians of international law, to say that a country is entitled, because it subjectively thinks that its neighbour is going to invade it, immediately to lead its armies into the Uri-Poonch area? The resistance offered by the local people against rapine and plunder, the kind of thing that is now being practised by Pakistan on the people, has not been put out in the Pakistan Press as something inside a jail or in *camera*, but in the full blare of publicity. Would the Pakistan Press, would the British Press, would the American Press, would the Soviet Press, would the Foreign Minister of Pakistan—as one of the parties who promoted the sabotage and, what is more, the dismemberment of constituent authority—approve? Can the Pakistan Government produce one shred of evidence that will stand examination that the Government of India, or any

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responsible body of people in India, has done anything at any time to interfere in the internal affairs of Pakistan, or even in the administration that goes on in Jammu and Kashmir, which is our sovereign territory, but is on the other side of the cease-fire line? Therefore, that is our answer to Mr. Jarring.

Only one point remains. My Government desires to know whether the Swedish Government, represented by Mr. Jarring, is in agreement or disagreement with him, because Mr. Jarring has told the Security Council that he has established—these are his words, not mine—that you proceed from the resolutions adopted by the Commission for India and Pakistan on 13 August 1948 and on 5 January 1949; and then he has established that the deadlock now exists in regard to part I of the resolution of 13 August 1948. Does this issue that it is to be referred to the Court come under part I or not? Assuming for the purpose of argument—please, will the verbatim reporters be so careful as to put down the word "assuming"? We are the victims, partly because of my bad voice and my bad enunciation, of the dropping of words that have to be corrected afterwards—assuming, for the purpose of argument, that the accession was amenable to examination. Mr. Jarring, by his own choice, by his interpretation of the Security Council resolution of 21 February 1957 (*S/3793*), by his understanding of the facts of the situation, expressly deliberately and repeatedly denied himself any privilege, any opportunity, any leeway, any facility, any of the things we offered, to go beyond the track set by the resolution.

One thing has been categorically stated by the past President of the Security Council, Mr. Jarring:

> "In my report, I established that a deadlock had been reached between India and Pakistan on part I of the resolution of 13 August 1948, and in particular on paragraphs B and E of that part." [*798th meeting, para. 40*].

I have no desire to create any embarrassment for any representative who sits here in behalf of his Government; but,

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you will not deny that we are dealing with a problem of vast importanc to e our country, and some people say of vast importance to the world. In our relations with Sweden, knowing the Government of Sweden, particularly its Foreign Minister, and knowing that these suggestions are entirely *bona fide*, we are entitled to answer, we are called upon to answer this.

The last time, partly because of the pressure of time and because of the crowding of other events, and perhaps subconsciously because I wanted to avoid the issue which would make for difficulties, we did not deal with this matter. So, our submission to the Government of Sweden is: first, has the Government of Sweden departed from Mr. Jarring's statement reproduced in paragraph 41 of the verbatim record of the Council's 798th meeting? Second, whether the Government of Sweden is prepared to ask the Government of Pakistan and the members of the Security Council, privately if you like, whether there is any use in committing us, whether they would bind themselves to a proposition of this kind? Thirdly, whether it is right that on the one question on which under Chapter VI of the Charter, indeed of the whole of the Charter of the United Nations, the Assembly and the Security Council have no jurisdiction.

If that alone is to be referred, then what is the significance of our not insisting upon the gross, the cruel and the outrageous violations of international law that have taken place, which are not implicit—which are contained in the resolution of 13 August 1948, which according to the resolution itself constitute a material change. Those words "material change" are not just put in there as an anguish of the heart. Material change is the phrase that is drawn from the previous injunction to the parties. That is, there is a material change that ought to be reported. In all the years that have gone by there has been no charge against us for creating "material changes". There was an allegation that we have augmented our troops. We immediately asked our command for information. They were horrified. We put the facts before you. We had no objection to disclosing this information. We heard no

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more about it. We had, apart from all the super numeraries, 135,000 combatants at the time of the cease-fire. Have we got them there now?

The Pakistan delegation has picked out of context something alleged to be from Dr. Graham's report. The Pakistan delegation, to the best of my recollection—I was not going to reply to them today—has said somewhere—and I will be happy to stand corrected—that Dr. Graham has said that the Indians have augmented troops. I am not prepared to lay this allegation at the door of Dr. Graham, because whatever might have been the situation in February last, when I came here—and I do not say this in an egoistic way—I have some idea where our troops are, where they have been, and it is my business to know it. We have not used the full information about the deployment of Pakistan troops and the use of their logistics.

Your colleague, Sir, who spoke for Iraq on 25 October (*797th meeting*) forced us into an unfortunate and to us a very disagreeable position by a speech that was so partisan—I will not quote evidence, not from my memory—and was addressed on behalf of the Government of Iraq to the Government of India.

Now, that for the moment deals with the latter part of the discussion. I have no desire to impede the progress of the proceedings of the Council. Therefore, unless you are willing to have a five-minute recess, I will go on with the subject. I am entirely in your hands. I ask for no mercy from you.

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